

December 14, 2010

The Honorable Arnold Schwarzenegger
Governor's Office
State Capitol
Sacramento, CA 95814

RE: Request to Withdraw Draft Regulations for Green Chemistry by DTSC

Dear Governor Schwarzenegger:

The undersigned are writing to urge you to withdraw the most recent proposed Green Chemistry Regulation for Safer Consumer Product Alternatives submitted by the Department of Toxic Substances Control (DTSC) to the Office of Administrative Law (OAL). Over the last two years, we have supported the vision you initiated when you called for the formation of a Green Chemistry Initiative to help protect public health and the environment, while building a sustainable economy in California. Many of us participated actively in DTSC's stakeholder process to develop the necessary regulations to implement the Initiative. While previous drafts of the proposed regulations had some significant limitations, a broad range of stakeholders ultimately supported them.

In contrast, the revised regulations released for a 15-day comment period on Nov. 16, 2010 bore little resemblance to anything DTSC has promulgated before and have drawn sharp criticism and opposition from, among others: the author of the enabling legislation (AB 1879); members of the Green Ribbon Science Panel; the authors of the 2008 University of California report to the Administration titled *Green Chemistry: Cornerstone to a Sustainable California*, signed by over 125 UC faculty from seven UC campuses.

We are aware that withdrawing the proposed regulations from OAL would result in the state missing the Jan. 1, 2011 deadline for completion. This would be unfortunate, as we are eager to have a working Green Chemistry program, but this program is too important to get wrong – especially since the rest of the country is looking to the State of California for leadership on this issue.

Many groups and individuals have written DTSC in the last two weeks pointing out that the revised regulations would not meet the intent of AB 1879 and would not result in Californians getting safer products on the shelves. In addition, many have pointed out that the DTSC's process (only a 15-day comment period) in issuing these radically altered regulations does not appear to be legal.

The following are excerpts from a few of the numerous critical comment letters that have been submitted to DTSC about the current version of the regulations:

“The revised proposal not only fails to address the flaws of the earlier version but compounds them by fundamentally altering the approach called for under legislation I authored. I cannot support the revised proposal.”

Assemblyman Mike Feuer
Author, California's Green Chemistry Law AB 1879
(Letter dated 12/3/2010)

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"If the November revisions are included in the Safe Consumer Product Alternatives regulations these regulations will result in little improvement in chemical use in California and will not fulfill the intent of AB 1879 to address the danger of hazardous chemicals contained in consumer products."

Letter from six State Senators: Steinberg, Corbett, Leno, Pavley, Hancock, and Evans. (letter dated 12/08/2010)

"With the publication of the Green Chemistry Initiative's final report in 2008, California EPA Secretary Linda Adams declared it a 'far-reaching market-driven strategy with an ambitious aim—the launch of a new chemicals framework and a quantum shift in environmental protection.' In fact, the revised proposed implementing regulations undermine Cal/EPA's ability to accomplish this vision.... As such, we can no longer support these regulations, and we urge DTSC to withdraw them."

Megan R. Schwarzman, MD, MPH and Michael P. Wilson, PhD, MPH
Center for Occupational and Environmental Health
University of California, Berkeley
Members, Green Ribbon Science Panel
Authors of 2008 University of California report: *Green Chemistry: Cornerstone to a Sustainable California*
(letter dated 12/03/2010)

"[T]he current regulations have been diluted to such an extent that they do not achieve the primary objectives of the legislation that initiated them.... We strongly suggest to the Department that the current draft of the regulations be removed from consideration. The regulations as they stand do not establish an implementable process as required by the statute, nor do they promote or encourage green chemistry in the state of California."

Ann Blake, PhD, Principal, Environmental & Public Health Consulting
Roger Mc Fadden, Vice President, Senior Scientist, Staples, Inc.
Members, Green Ribbon Science Panel
(letter dated 12/03/2010)

"The Post Hearing Changes are substantial and they fundamentally change the proposed regulations.... While many deletions may have been in the spirit of streamlining the regulations, some of these deletions appear to weaken public protections."

Linda Rudolph, MD, MPH
Deputy Director, California Department of Public Health
(letter dated 11/29/2010)

"[T]he current proposed regulations would not effectively protect our water resources from emerging constituents of concern, may provide a false sense of safety while stalling urgently needed legislative actions addressing the most harmful

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substances, and leave publicly-owned treatment works and the public at large vulnerable the host of poorly evaluated chemicals used in consumer products.”

San Francisco Public Utilities Commission
(letter dated 12/03/2010)

“Very substantial restructuring has transformed the Proposed Regulations into a form that we can no longer support. Unfortunately, we have concluded that the state of California, the public health, the environment and the business community would all be better served if the Revised Regulations were not implemented at all by DTSC. Moreover, the process by which the Revised Regulations were promulgated violates Government Code § 11346.8 and renders them invalid. Accordingly, we oppose promulgation of the Revised Regulations and urge DTSC to withdraw them in their entirety on both substantive and procedural grounds.”

Ansje Miller, on behalf of CHANGE a coalition of 33 environmental and environmental justice groups, consumer advocates, health organizations, labor advocates, community based groups and parent organizations.
(letter dated 12/03/2010)

For California’s Green Chemistry Initiative to be successful, it must have broad-based support from the scientific, environmental, and public health communities, as well as from the state’s own green chemistry champions in the legislative and academic arenas. Given the drastic and fundamental changes that were made to the proposed regulations at the eleventh hour, this is no longer the case. We therefore urge you to take immediate action to stop implementation of the draft regulations. Too much work has gone into the formulation of a strong program to have these weak regulations adopted.

The people of California deserve and need better.

Sincerely,

Eveline Shen, Executive Director
Asian Communities for Reproductive Justice

Amy Chastain, Executive Director
Bay Area Clean Water Agencies

Wafaa Aborashed, Executive Director
Bay Area Healthy 880 Communities-San Leandro

Sharon Newton
Bay Area Pollution Prevention Group

Jan Robinson-Flint, Executive Director
Black Women for Wellness

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Kimberly Irish, Program Manager
Breast Cancer Action

Jeannie Rizzo, R.N., President and CEO
Breast Cancer Fund

Lisa Fu
California Healthy Nail Salon Collaborative

Warner Chabot, CEO
California League of Conservation Voters

Heidi Sanborn, Executive Director
California Product Stewardship Council

Martha Guzman Aceves, Legislative Advocate
California Rural Legal Assistance Foundation

Mark Murray, Executive Director
Californians Against Waste

Ansje Miller, Coordinator
Californians for a Healthy and Green Economy (CHANGE)

David Chatfield, Executive Director
Californians for Pesticide Reform

Michael Green, Executive Director
Center for Environmental Health

Andria Ventura, Program Manager
Clean Water Action

Luis Cabrales, Deputy Director of Campaigns
Coalition for Clean Air

Richard Holober, Executive Director
Consumer Federation of California

Pamela King Palitz, Environmental Health Advocate and Staff Attorney
Environment California

Renee Sharp, California Director
Environmental Working Group

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Janelle Sorensen, Senior Editor and Outreach Director
Healthy Child Healthy World

Marlom Portillo, Project Manager
Instito de Educacion Popular del Sur De California

Janis R. Hirohama, President
League of Women Voters of California

Lisa Russ, Senior Fellow
Movement Strategy Center

Sarah Janssen, Senior Scientist
Natural Resources Defense Council

Paul Towers, State Director
Pesticide Watch

Martha Dina Arguello, Executive Director
Physicians for Social Responsibility- Los Angeles

Deb Self, Executive Director
San Francisco Baykeeper

Juliet Ellis, Assistant General Manager, External Affairs
San Francisco Public Utilities Commission

Ted Schettler MD, MPH, Science Director
Science and Environmental Health Network

Bill Magavern, Director
Sierra Club California

Sheila Davis, Executive Director
Silicon Valley Toxics Coalition

Gail Bateson, Executive Director
Worksafe

Attachments: copies of letter quoted

cc: Director Mazier Movassaghi
John Moffatt, Governor's office