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California Department of Toxic Substances Control
Office of Legislation & Regulatory Policy
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RE: Draft Regulation for Safer Consumer Product Alternatives

IPC – Association Connecting Electronics Industries® appreciates the opportunity to comment on the Department of Toxic Substances Control’s (DTSC) draft regulation for Safer Product Alternatives (hereafter referred to as draft regulation). IPC is concerned that the draft regulation is likely to have an excessive negative impact on the manufacturing industry, including electronics manufacturing, because it is extremely broad and cumbersome. The draft regulation would require manufacturers to submit copious amounts of information that will take a significant amount of time and cost to gather. We encourage DTSC to give manufacturers ample time to gather information on chemicals and conduct alternatives assessments. Manufacturers must ensure that selected alternatives are better for human health and the environment and provide the same level of functionality and reliability as the original substances. The citizens of California, DTSC and industry would all be better served by a manageable approach to a green chemistry regulation.

These comments will provide suggestions that would make the draft regulation more a manageable, cost effective regulation.

About the IPC

IPC, a global trade association, represents all facets of the electronic interconnection industry, including design, printed board manufacturing and electronics assembly. Printed boards and electronic assemblies are used in a variety of electronic devices that include computers, cell phones, pacemakers, and sophisticated missile defense systems. IPC has over 2,700 member companies, including over 250 member facilities located in California. As a member-driven organization and leading source for industry standards, training, market research and public policy advocacy, IPC supports programs to meet the needs of an estimated $1.7 trillion global electronics industry.

IPC members are strong supporters of cost effective environmental regulations. IPC and its members are heavily involved in a number of voluntary environmental initiatives that promote cost effective regulations, including several of EPA’s Design for the Environment partnership
projects, the development of the Electronic Product Environmental Assessment Tool (EPEAT) standard\(^1\), and the development of a green chemistry standard through the American Chemical Society and National Standards Foundation.

**The Process for Prioritizing Chemicals of Concern and Priority Products is Unclear**

The process proposed by DTSC to prioritize chemicals of concern (COC) and Priority Products lacks transparency. While the draft regulation lists prioritization factors that will be considered for the chemicals under consideration list, the COC list, the products under consideration list and the Priority Products list, it does not indicate how those factors will be used to determine whether a chemical is a COC or a product is a Priority Product. In other words, there is no indication as to what factors are most important in determining a COC or a Priority Product. In addition, the draft regulation does not address how a chemical or product will be evaluated if a piece of data is unavailable. The draft regulation should clearly state how the data received from manufacturers will be used to identify COCs and Priority Products.

When developing the list of Priority Products, it is unclear whether DTSC will identify products generically or specifically. For example, will DTSC list “cell phones” generically or “iPhone 3G version” specifically? If DTSC lists products specifically, there is no need for manufacturers to inform DTSC that they manufacture the specific product since DTSC has listed that specific product. If DTSC lists products generically would there be a process in place for manufacturers to declare that their product is not a Priority Product? For example, if a cell phone manufacturer produces a cell phone that does not contain a COC, there is no need for that manufacturer to perform an alternatives assessment. The draft regulation should clearly state how the data received from manufacturers will be used to identify COCs and Priority Products. For example, the criteria used to exempt lamps with mercury should be delineated so that manufacturers of other products that contain a toxic substance can understand how DTSC determines such cost – benefit decisions.

**DTSC Will be Challenged in Attempting to Implement and Enforce Such a Far-Reaching Regulation**

The draft regulation places a great deal of responsibility on the state of California. Given California’s limited resources, IPC is concerned that complete and appropriate enforcement and implementation of this draft regulation may be beyond the current capacities of the state. In order to ensure an effective regulation, DTSC will need to hire a number of additional technical staff to evaluate the voluminous amount of information that will be received in a timely manner. Under the proposed regulation, DTSC staff will have to analyze all received information in order to prioritize COCs and Priority Products. DTSC staff will also have to evaluate and approve alternative assessment work plans and reports in a timely manner received from hundreds of manufacturers. Another task DTSC must carry out is enforcement action against manufacturers who do not obey any part of the draft regulation. IPC encourages DTSC to implement the changes suggested in these comments to ensure the draft regulation is implementable and enforceable.

\(^1\) [http://www.epeat.net/](http://www.epeat.net/)
The Chemical and Product Information Required is Extensive, Technical, and Not Readily Available

In the draft regulation, DTSC proposes to collect a lot of information from manufacturers on individual chemicals and how those chemicals are used in products. Consumer product manufacturers, even very sophisticated ones, do not have immediate access to all the information required by the draft regulation. In many industries, supply chains are extremely lengthy and complex. Gathering information from hundreds of suppliers is difficult, time-consuming and costly. Small manufacturers will be at a huge disadvantage because they do not have the resources to gather and submit the excessive amounts of data DTSC is proposing to require. The draft regulation, as currently written, prevents manufacturers from working together to gather information on chemicals. DTSC should consider modifying the language in the draft regulation to allow manufacturers to collaborate with one another on collection of decision critical information. DTSC can implement a more effective regulation by giving manufactures the option to collaborate and only requiring the essential information.

The Process for Performing an Alternatives Assessment is Complex and Burdensome

IPC believes that DTSC has grossly underestimated the amount of resources needed to conduct an alternatives assessment and alter the chemical composition of a product, if necessary. Finding viable alternatives that provide the same level of functionality and reliability takes a great deal of time (years) and effort. Manufacturers must conduct a scientific analysis of each potential alternative to determine whether it is better for human health and the environment than the substance being removed. If the determination is made that the alternative is better, the manufacturer must produce a small number of products that contain the alternative chemical and those products must go through several rounds of requalification testing to ensure the product is reliable, functions properly and meets the same product specifications. If the newly formulated product does not meet the performance specifications then the manufacturer must repeat the entire process. We urge DTSC to implement a time frame of no less than four years for manufactures to complete an alternatives assessment. This time frame is similar to the time frame set forth in the European Union Restriction of Hazardous Substances (RoHS) Directive, which allows manufactures enough time to ensure that their product can function properly and reliably without the restricted substance. IPC members are still dealing with issues with lead-free electronics resulting from the RoHS ban on lead in electronics since that directive became effective on July 1, 2006. Giving manufacturers at least four years to conduct an alternatives assessment will ensure that consumer products manufactured and sold in California will function properly and reliably.

A single consumer product may contain more than one COC. In this case, manufacturers will need to multiply the resources expended because the costly, lengthy process for finding suitable alternatives would need to be done for each COC in the product. Simultaneous alternatives assessments will also create a large burden for DTSC since there are deadlines for when the agency must respond to work plans, extension requests, reports, etc. DTSC should modify the language in the draft regulation so that manufacturers are only required to conduct one alternatives assessment at a time.
Conclusion

DTSC’s proposed regulation will have significant negative impacts on electronics manufacturing. Gathering the chemical and product information put forth in the draft regulation will take considerable time and effort. IPC encourages DTSC to be more transparent in how COCs and Priority Products are chosen based upon the prioritization factors identified in the draft regulation. Finding viable alternatives will also cause significant negative impacts because it takes a great deal of resources to ensure that the alternatives are better for human health and the environment and provide the same level of functionality and reliability. IPC urges DTSC to allow ample time for manufacturers to complete alternatives assessment. Simplifying the draft regulation will enable DTSC to more easily implement and enforce the regulation.

IPC appreciates the opportunity to comment and encourages the agency to take our suggestions into strong consideration.

Sincerely,

Stephanie Castorina
Manager, Environmental Programs