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February 14, 2011

Government Affairs, U.S. Western Region

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Via email (fkammerer@oehha.ca.gov) and U.S. mail

Ms. Fran Kammerer
Office of Environmental Health Hazard Assessment
P. O. Box 4010
Sacramento, California 95812-4010

Re: Proposed Regulation for Green Chemistry Hazard Traits (12/17/10)

Dear Ms. Kammerer,

E. I. du Pont de Nemours and Company (DuPont) submits these comments in response to the Office of Environmental Health Hazard Assessment (OEHHA) December 17, 2010, proposed regulation entitled Green Chemistry Toxics Information Clearinghouse Identification of Hazard Traits, Endpoints and Other Relevant Data for Inclusion in the Toxics Information Clearinghouse (Proposed Regulation for Green Chemistry Hazard Traits).

DuPont has a 208-year legacy of core values, rooted strongly in safety, health and environmental stewardship. DuPont is a science company that values the use of sound scientific principles with regard to stewardship issues and in developing regulatory frameworks.

When final, the Regulation on Green Chemistry Hazard Traits will be an important reference used during the implementation of California's Green Chemistry Initiative and perhaps other State environmental and health programs. Because of its anticipated influence on these programs, it is important to identify a framework that will promote science-based decision-making.

While DuPont recognizes the challenges of crafting such a regulation and balancing the diverse perspective of all stakeholders, we are apprehensive that insufficiencies in the proposed version may lead to regulatory decisions that are not based on the best available science. Specifically, we are concerned that some chemicals will be categorized as "chemicals of concern" without sufficient scientific evidence.

DuPont health and environmental scientists and engineers have conducted careful review of the proposed Regulation on Green Chemistry Hazard Traits. DuPont agrees with and fully supports the comments of the Green Chemistry Alliance. In addition, we describe our chief concerns below.

(1) A new and unique classification system generated by the State of California is unnecessary and could create confusion.

Several well-established hazard trait and toxicological end-point classification systems exist and are in use across the globe¹. To adopt a novel system unique to California is an unwarranted expenditure of resources. It is unclear why existing classifications that are accepted globally would be insufficient to characterize chemicals in the State of California. While it is understandable that acceptable *health benchmarks* may vary from region to region based on selected uncertainty factors and preferred margins of safety, inherent chemical traits do not vary regionally. To stray from existing and accepted systems is inviting conflict, confusion and inefficient use of resources as information from existing systems will ultimately have to be reconciled and translated for use in California. DuPont recommends that OEHHA look to an existing classification system.

(2) Requirements for ensuring good data quality are not rigorous enough.

- In virtually every section of the proposed regulation, the phrase “other relevant data” is mentioned as reasonable evidence for establishing a given hazard trait. Application of “other relevant data” is not well-defined and should not be the sole justification for establishing hazard characteristics. All information submitted as “other relevant data” should meet pre-established criteria to ensure its quality.
- OEHHA should describe how various types and sources of data should be used to make decisions about chemical hazard, with the understanding that not all information in the Toxics Information Clearinghouse will be of equal or exemplary quality.
- “Well-conducted scientific studies” mentioned throughout the proposed regulation and which are required to substantiate results and conclusions should require references when attributing information from another source.

(3) The proposed regulation stretches the definition of “hazard trait” to its breaking point by uniquely redefining well-known environmental impacts and measures of environmental presence as hazard traits.

While it is understood that Health and Safety Code section 25256.1 allows environmental endpoints and other relevant data to be evaluated for inclusion in the Toxics Information Clearinghouse, it does not suggest redefining these endpoints as hazard traits. Parameters such as ambient ozone formation, persistence, and global

¹ See Green Chemistry Alliance comments for a more detailed description of existing systems.

warming potential should continue to be characterized as environmental endpoints. It is not scientifically credible to reframe these endpoints as hazard traits. This section should be retitled "Screening Level Exposure Potential Based on Environmental Endpoints".

Thank you for the opportunity to comment on this very important matter. DuPont looks forward to working with OEHHA and our fellow stakeholders to develop and implement a regulation that will allow scientifically sound decision-making for the benefit of all stakeholders.

Sincerely,

A handwritten signature in cursive script that reads "Caroline Silveira".

Caroline Silveira
Government Affairs Manager, Western Region