CASQA
California Stormwater Quality Association®
Dedicated to the Advancement of Stormwater Quality Management, Science and Regulation

September 13, 2010

Fran Kammerer
Staff Counsel - Office of Environmental Health Hazard Assessment
1001 I Street
Sacramento, CA 95812

Subject: *Comment* - Pre-regulatory draft regulation for hazard traits, environmental and toxicological end-points (August 10, 2010)

Dear Ms. Kammerer:

Thank you for the opportunity to comment on the pre-regulatory draft. I am submitting these comments on behalf of the California Stormwater Quality Association (CASQA).[1] These regulations have the potential to decrease the discharge of toxic pollutants to the waters of the state and to improve overall water quality. This will benefit water users including domestic and agricultural supply and will also benefit the public and the environment. Our members would also directly benefit in their efforts to ensure that stormwater runoff does not adversely impact the waters of the state.

Our main concern is to ensure that the draft regulations allow the Green Chemistry Initiative to fully address not only toxicants directly impacting humans, but also those chemicals causing environmental impacts, especially on water quality. Many of these impacts result from consumer products – tires, brake linings, fuel, paint, etc. – that could be reformulated so that toxic byproducts do not end up on roadways, nearby soils and other urban surfaces and ultimately in stormwater runoff. Current control efforts for many of these water quality pollutants of concern are directed at end-of-pipe treatment which is relatively ineffective and places an excessive financial burden on municipal stormwater agencies.

We appreciate the obvious high level of effort and dedication that went in to developing these regulations. We are very hopeful that they will significantly benefit the environment. We offer the following comments to further enhance their benefit.

1. Page 4 – 2.i – Definition: "Environmental endpoints" are measured or otherwise observed adverse environmental effects in ecological systems, or components of ecological systems, or non-human organisms within ecological systems.

   Comment: We suggest environmental endpoints include environmental classifications of impairment such as the Water Boards' and USEPA's identification of impaired water bodies under Clean Water Act section 303(d).

[1] CASQA is comprised of stormwater quality management organizations and individuals, including cities, counties, special districts, industries, and consulting firms throughout California. Our membership provides stormwater quality management services to more than 22 million people in California. CASQA was originally formed in 1989 as the Stormwater Quality Task Force to recommend approaches for stormwater quality management to the California State Water Resources Control Board.

2. Page 5 – 2.q – Definition: "Well conducted scientific studies" means studies published in the open literature or submitted to a local, state, national or international government agency, using methods and analyses which are scientifically valid according to generally accepted principles

   Comment: We believe that well-conducted scientific studies should include studies completed by regulatory agencies, which may not be formally published or submitted. These include for example, the final Clean Water Act 303(d) list and reports developed by the Water Board's Surface Water Ambient Monitoring Program (SWAMP).

3. Page 5 – 2.r – Definition: "Wildlife" means all non-human undomesticated animals present in the environment.

   Comment: The definition of "wildlife" should be clarified to ensure that the biological use of the term "animal" is intended (i.e., to include aquatic life) rather than the colloquial usage of this term (often limited to non-human mammals).

4. Page 14 – 3.b.i – Environmental Hazard Traits, Wildlife survival impairment:

   Comment: (1) The regulations should be written such that aquatic toxicity data are sufficient to define a chemical hazard trait. The definition of the "wildlife survival impairment" hazard trait would require an extra burden of proof that is not required for any other hazard trait (demonstration that the aquatic toxicity "significantly decreases the potential for wildlife survival in the environment.") This phrase should be deleted, which would make this hazard trait definition parallel to the definitions of other hazard traits.

   (2) We also suggest that wildlife survival impairment include detrimental affects to wildlife that impair the organism's ability to function normally. For example, low levels of copper can impair salmon's sense of smell, making them less responsive to the chemical alarm signal released by other salmon. Possibly, the hazard traits identified would include this example, however, we want to ensure that these subtle impacts are included in the program.

5. Page 17, 18 – 3.c.ii – Exposure potential hazard traits, bioaccumulation:

   Comment: It is appropriate to clarify that this includes biomagnification across trophic (food chain) levels.

6. Page 22 – 4 – Sources and methodologies for identifying toxicological and environmental hazard traits:

> *Comment: (1)* The Class One/Class Two ranking system for chemicals is inappropriate for aquatic toxicity, and we believe it is not needed for aquatic toxicity (i.e., a single class is appropriate). To date, authoritative body lists have been created for human health endpoints, but not for environmental toxicity endpoints. Such a ranking system could inappropriately reduce DTSC's ability to address water pollution and urban runoff compliance problems.
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> *(2)* We also suggest the SWRCB be authorized to make the request to OEHHA regarding a determination of hazard trait, in addition to DTSC (see 4.a.ii and 4.b.ii).
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> *(3)* Finally, Section 4. is titled: "Sources and methodologies for identifying toxicological and environmental hazard traits." However, environmental hazard traits do not appear to be addressed in this section. This subsection appears missing.

In closing, CASQA appreciates the amount of effort devoted by OEHHA to this program and we appreciate the opportunity to comment. We hope that our comments will assist you during preparation of the regulatory draft regulations. Please contact me at (760) 603-6242 or Geoff Brosseau, our Executive Director at (650) 365-8620 if you have any questions or would like to discuss our comments further.

Sincerely,

Scott Taylor, Chair
California Stormwater Quality Association

cc: Tom Howard, State Water Resources Control Board
Jonathan Bishop, SWRCB
Darrin Polhemus, SWRCB
Bruce Fujimoto, SWRCB
CASQA Executive Program Committee
CASQA Board of Directors