



February 15, 2011

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

Re: Submission of Comments on *Proposed Regulations, Green Chemistry: Hazard Traits, Endpoints, and Other Relevant Data*

Dear Ms. Kammerer:

The Nanotechnology Coalition (Coalition), an independent trade association affiliated with The Society of Chemical Manufacturers and Affiliates (SOCMA¹), is pleased to submit comments on the *Proposed Regulations, Green Chemistry: Hazard Traits, Endpoints, and Other Relevant Data*. The Coalition is composed of nanomaterial producers and users which focus on environmental, health, and safety issues to promote the safe development of nanomaterials, communicate industry positions to regulatory agencies, address standards and definitions in nanotechnology, and promote development of nanotechnology stewardship programs.

An overarching issue the Coalition wishes to emphasize is the significant impact of regulations generally on small business. The Coalition acknowledges the importance of the Green Chemistry Program to the State of California, but stresses that the regulations must consider the unique impact of regulations on small business, which typically have limited resources and are particularly susceptible to the burden of regulations that are not grounded in sound science. The Coalition represents a diverse membership of small, medium, and large chemical companies with member companies encompassing every segment of the industry. These small businesses represent many jobs within the State of California and the Office of Environmental Health Hazard Assessment (OEHHA) should strive for science-based regulations allowing continued innovation that stimulates economic growth.

More specifically, the proposed regulations seek to identify important science-based hazard characteristics that will be used to evaluate chemical substances under the California's Green Chemistry Program. The draft identifies hazard traits, which, for the most part, are well-established intrinsic characteristics that are broadly accepted within the scientific community. It is critical that OEHHA continue to coordinate its efforts with the Department of Toxic Substances Control (DTSC) in using sound science to develop a regulatory framework for this important Program.

¹ SOCMA is the leading trade association serving the batch, custom and specialty chemical industry since 1921. SOCMA's nearly 300 members employ more than 100,000 workers across the country and produce 50,000 products valued at \$60 billion annually.

To that end, it is critical that both agencies continue to assess all chemical substances similarly using established scientific principles to identify intrinsic traits that truly correlate with demonstrable hazards.

The Nanotechnology Coalition offers the following specific comments on Article 5:

1. The entire article should be stricken because it is premised on the fundamentally flawed and illogical supposition that “exposure potential” is a hazard trait. Exposure potential is not and can never be a hazard trait because exposure potential is not a trait. Exposure potential is just that -- an unrealized capacity that can only be realized in the context of a particular chemical substance under particular exposure circumstances. “Exposure potential” cannot logically, legally, or scientifically be decoupled from a factual context involving a particular chemical substance with a definable intrinsic trait or traits that require exposure to actualize the hazard. The entire Article 5 should therefore be eliminated because it makes no sense and is scientifically meritless.
2. If Article 5 is not deleted in its entirety, Section 69405.7 is uniquely inappropriate because it wrongly perpetuates the inaccurate perception that a chemical substance is intrinsically hazardous due solely to its size, regardless of exposure considerations. This is scientifically indefensible and uniquely stigmatizes nanoscale materials. This section should, therefore, be stricken.
3. Section 69405.7 also addresses potential respiratory hazards as they relate to particle size or fiber dimension yet it also includes “dermal or ingestion exposure.” Since dermal or ingestion exposure has no bearing on respiratory toxicity, this language should be deleted if the section remains part of the proposed regulations.

The Nanotechnology Coalition is prepared to assist OEHHA in developing science-based regulations to support the California Green Chemistry Program and appreciates this opportunity to lend our voice to this important effort.

Sincerely,



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