

CAL DOOLEY  
PRESIDENT AND CEO



September 8, 2014

Mr. Elliot F. Kaye, Chairman  
Consumer Product Safety Commission  
4330 East West Highway  
Bethesda, MD 20814

Dear Chairman Kaye,

On behalf of the American Chemistry Council (ACC), I am writing to request that you seek public comment on the Chronic Hazard Advisory Panel (CHAP) report on phthalates and phthalate alternatives prior to the commencement of formal rulemaking under the Consumer Product Safety Improvement Act (CPSIA). The CHAP report was not subject to an open, public comment period in accordance with guidelines set forth in the Office of Management and Budget's (OMB) Information Quality Bulletin for Peer Review (2005), and was only subjected to a non-public peer review. As you may know, the OMB guidelines for the peer review of "highly influential scientific assessments" were established to enhance the peer review of government science documents and to improve the quality and credibility of information upon which policy decisions are based.

The failure to adhere to the OMB guidelines for the peer review of a highly influential scientific assessment such as the CHAP report sets an extremely concerning precedent for federal chemical assessment, especially one that will have federal interagency impact. The OMB guidelines outline several important steps to ensure the integrity of the independent review process, steps which were not followed by the CPSC with regard to the CHAP report. The peer review process was not managed by an entity that was independent of the group that oversaw the CHAP; the CPSC did not make a draft report available for public comment; the CPSC did not hold a public meeting where public comments could have been presented to the peer reviewers; and, absent public input, the peer reviewers had no opportunity to consider and respond to public comments. This is the first time a federal agency has tried to examine, characterize and quantify the combined adverse effects on human health or ecologic resources from multiple chemicals outside of the U.S. Environmental Protection Agency's (EPA) pesticide program. Even as it notes that the current margin of exposure (MOE) for DINP is adequate to protect public health, the CHAP report recommends that the interim restrictions on DINP be made permanent due to possible, albeit negligible contribution to cumulative risk. Further, we cannot imagine why any country would ban a chemical in consumer products based upon a negligible contribution to cumulative risk.



Since any CPSC rulemaking based upon the CHAP report will affect the approach of other federal agencies examining the cumulative risks if any, of chemicals, the CHAP report should not be used as the basis for a proposed rule until after the CPSC seeks and considers public comments on the CHAP report. A public comment period will also facilitate comments from other federal agencies.

According to the most recent data published by the U.S. Centers for Disease Control and Prevention,<sup>1</sup> exposure to high phthalates, such as DINP and DIDP, in the general population is 100 to 1,000 times lower than the levels established as safe by government regulatory bodies.

Phthalates have been safely used in consumer and commercial products for more than 50 years to enhance durability, flexibility and performance. Phthalates are primarily used to make polyvinyl chloride (PVC or vinyl) flexible and are used in hundreds of products in our homes, hospitals, cars and businesses. Phthalates are some of the most tested substances in commerce and the scientific data about their safety has been reviewed by multiple government agencies in the United States, Europe and Australia, including previous reviews by the CPSC.

ACC and our member companies support the science-based regulation of chemicals and are committed to responsible product stewardship. Absent an appropriate process that ensures objective and transparent science-based regulatory decisions, neither our member companies nor consumers, public health advocates and the scientific community can have confidence in the CPSC's rulemaking process. We hope that you will use your authority to ensure that the CHAP report is subject to public comment prior to the commencement of rulemaking as part of an appropriate process to further science-based regulatory decision-making.

Sincerely,

A handwritten signature in black ink that reads "Cal Dooley". The signature is written in a cursive, slightly stylized font.

Cal Dooley

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<sup>1</sup> The CHAP used CDC National Health and Nutrition Evaluation Survey (NHANES) data from 2005-2006 (predating the enactment of the CPSIA). The most recent NHANES data available are from 2009-10.