

ONE HUNDRED THIRTEENTH CONGRESS
Congress of the United States
House of Representatives

COMMITTEE ON ENERGY AND COMMERCE

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August 1, 2014

The Honorable Elliot F. Kaye
Chairman
U.S. Consumer Product Safety Commission
4330 East West Highway
Bethesda, MD 20814

Dear Chairman Kaye:

We congratulate you on your recent confirmation as the tenth Chairman of the U.S. Consumer Product Safety Commission (CPSC).

As you are aware, the Consumer Product Safety Improvement Act of 2008 (CPSIA) called on the Commission to take action on phthalates and phthalate alternatives to ensure a reasonable certainty of no harm from those chemicals. The report of the Chronic Hazard Advisory Panel (CHAP) on Phthalates, transmitted to you last week, found continued high exposures to phthalates with very serious hazards.¹ In order to fulfill the Commission's statutory mandate under CPSIA, you should move quickly to make the current interim bans permanent and to initiate permanent bans on the additional phthalates found to pose risks.

CPSIA banned six phthalates from children's toys and child care articles.² These dangerous chemicals have been successfully phased out of products and kept off shelves since February 2009.³ The CHAP identified serious risks from each of those listed phthalates. Four were found to cause reproductive abnormalities stemming from a syndrome of androgen

¹ Report to the U.S. Consumer Product Safety Commission by the Chronic Hazard Advisory Panel on Phthalates and Phthalate Alternatives (July 2014) (online at www.cpsc.gov/PageFiles/169902/CHAP-REPORT-With-Appendices.pdf) (hereinafter "CHAP Report").

² The six banned phthalates are: di-(2-ethylhexyl) phthalate (DEHP), dibutyl phthalate (DBP), benzyl butyl phthalate (BBP), diisononyl phthalate (DINP), diisodecyl phthalate (DIDP), and di-n-octyl phthalate (DnOP).

³ CPSIA, § 108(a) and 108(b)(1).

insufficiency known as “phthalate syndrome.”⁴ Those phthalates were also found to adversely affect major organs, including the liver and thyroid, and most were associated with poorer scores on neurodevelopmental tests.⁵

Although the CHAP recommended that CPSC lift the interim bans on DNOP and DIDP, this was because of the comparatively low levels of these phthalates in children’s toys and child care articles, not because of their safety. To the contrary, the CHAP linked exposures to adverse developmental and systemic effects, with both posing risks to the liver, thyroid, immune system, and kidneys.⁶ DIDP has also been identified as a “probable toxicant” with adverse reproductive effects.⁷ These are serious hazards, and reintroducing these chemicals to children’s products would not ensure a reasonable certainty of no harm. We therefore urge you to preserve the existing bans and make those that have been interim permanent.

In addition to those already banned, the CHAP identified five more phthalates that pose serious health risks and should be banned from use in children’s products.⁸ These five phthalates, like many of those already banned, were found to have antiandrogenic effects that cause reproductive malformations through phthalate syndrome. One of the chemicals, DPENP, is actually “among the most potent phthalates” regarding these effects.⁹ The CHAP further found that each antiandrogenic phthalate contributes cumulatively to the risk of phthalate syndrome. The five phthalates with antiandrogenic characteristics were also found to adversely affect major organs, including the liver and thyroid. Several were associated with poorer scores on neurodevelopmental tests.¹⁰ Based on these findings, we strongly support the CHAP’s recommendation to ban DIBP, DHEXP, DCHP and DPENP.

For DIOP, the CHAP recommended an interim ban based on predictive modeling that suggests DIOP will present the same hazards as the other listed phthalates.¹¹ This modeling has been used in several regulatory systems for chemicals.¹² It has also been endorsed by industry in

⁴ The four banned phthalates with antiandrogenic effects are the three already permanently banned (DEHP, DBP, and BBP) and one currently banned on an interim basis (DINP).

⁵ CHAP Report at 83, 84, 86, 87, 89, 90, and 98.

⁶ *Id.* at 94 and 104.

⁷ *Id.* at 104.

⁸ The five additional phthalates are diisobutyl phthalate (DIBP), di-n-hexyl phthalate (DHEXP), dicyclohexyl phthalate (DCHP), di-n-pentyl phthalate (DPENP) and diisooctyl phthalate (DIOP).

⁹ CHAP Report at 113.

¹⁰ *Id.* at 89.

¹¹ *Id.* at 119.

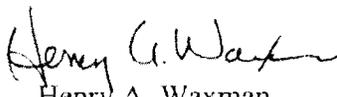
¹² The predictive modeling used in this case was structure-activity relationship modeling. Quantitative structure-activity relationship (QSAR) models have proven effective in predicting

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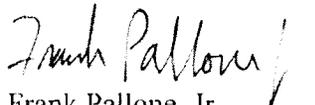
testimony before the Energy and Commerce Committee.¹³ We would go further and recommend a permanent ban since DIOP is currently used in products like baby bottles and pacifiers.

The CHAP's findings are alarming. The hazards associated with phthalates and their ubiquity in everyday products underscore the need for further regulatory action on and assessment of phthalates and phthalate substitutes. Although the statute requires CPSC to act within 180 days, we urge you to move forward on these actions without delay.

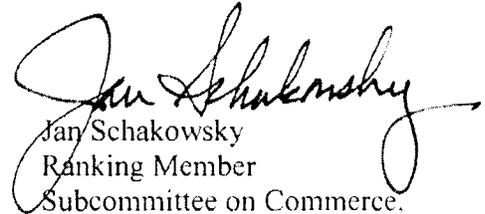
Sincerely,



Henry A. Waxman
Ranking Member



Frank Pallone, Jr.
Ranking Member
Subcommittee on Health



Jan Schakowsky
Ranking Member
Subcommittee on Commerce,
Manufacturing, and Trade

physicochemical properties, environmental fate endpoints, and environmental effects and have been used by the Organization for Economic Cooperation and Development (OECD) for its international testing program, the European Union's Joint Research Centre (JRC), and the U.S. Environmental Protection Agency (EPA) in the new chemicals program under the Toxic Substances Control Act (TSCA). EPA and OECD have also used qualitative structure-activity relationship modeling to assess human health hazard potential. See www.epa.gov/hpv/pubs/general/sarfin11.htm.

¹³ House Committee on Energy and Commerce, Subcommittee on Environment and the Economy, Testimony of Len Sauers, Procter & Gamble, *Hearing on Regulation of New Chemicals. Protection of Confidential Business Information, and Innovation*, 113th Cong. (July 11, 2013) (praising EPA's use of predictive modeling in the new chemical program).