



December 7, 2011

Inez Tenenbaum, Chairman
Consumer Product Safety Commission
4330 East West Highway
Bethesda, MD 20814

Dear Chairman Tenenbaum,

We are writing to register our objection to a serious breach of process that took place during the November 2-4, 2011 meeting of the Chronic Hazard Advisory Panel on Phthalates and Phthalate Substitutes (CHAP). Specifically, we believe the special presentation of research findings to the Panel by Dr. Rebecca Clewell of the Hamner Institute, at the request of ExxonMobil, violated the stated procedure developed by the Commission and your staff to protect the integrity of the CHAP process.

Both of our organizations were closely involved in the passage of Section 108 (Prohibition on Sale of Certain Products Containing Specified Phthalates) of the Consumer Product Safety Improvement Act (Public Law 110-314). As science-based advocacy organizations, our review of the peer-reviewed journal articles related to phthalates raised serious concerns regarding the health impacts of exposure to these endocrine disrupting chemicals, especially exposure for children. Phthalates have been linked in scientific studies to a series of health impacts, including early puberty (a risk factor for breast cancer), male reproductive abnormalities and reduced fertility, female reproductive abnormalities, respiratory disorders, and conditions related to metabolic syndrome including insulin resistance and obesity.

Since its enactment, we have closely followed the CHAP's progress, and we commend the committee members for taking their charge so seriously and for all their hard work. At the July 26, 2010 CHAP meetings we provided oral comments along with other stakeholder groups, and an announcement was made at that meeting that any further information from stakeholders would only be accepted in written form. Each of our organizations were given 15 minutes to present testimony on that date and we believed that would be our last opportunity for public comment directed to the CHAP until a draft of the report was completed.

In mid-October of this year, we received the Federal Register notification of the November 2- 4, 2011 meeting (Vol. 76, No. 198/Thursday, October 13, 2011, page 63610) and noted that the posting stated:

The November meeting will include invited speakers on Wednesday morning, followed by a discussion of the CHAP's progress on its report. **There will not be any opportunity for public comment at the November 2011 meeting.** (*emphasis added*)

However, when the November meeting agenda was distributed by Dr. Michael Babich on October 28, Dr. Clewell was listed as the first presentation of the meeting. Upon further inquiry, we learned that ExxonMobil's request to have the Hamner Institute present had previously been reviewed and declined by the CHAP, as indicated by the September 15th letter responding to Mr. Rawson at Latham & Watkins, LLP (attached). We further understand that the CHAP was later asked to reconsider their decision by senior Commission staff. We would like an explanation for the actions taken by Commission staff on behalf of ExxonMobil and the reason that ExxonMobil was given an opportunity to present their uninvited views directly to the CHAP while no other interested party was given this opportunity. We would also like to learn why these decisions were communicated to the public with only a few days notice. To help us better understand what occurred, we request that the Commission provide our organizations with a copy of all records related to this matter, including any communications between CPSC staff and ExxonMobil, the Hamner Institute, Dr. Clewell, Mr. Rawson, or anyone else affiliated with Latham & Watkins.

Every interested party should be treated equally and given the same opportunity to present their views to the CHAP. We would appreciate an explanation as to how and why ExxonMobil's special presentation to the CHAP was allowed to occur as well as an assurance that such favoritism will not be repeated.

We look forward to your response.

Respectfully,



Nancy Buermeyer
Senior Policy Strategist
Breast Cancer Fund

1388 Sutter Street, Suite 400
San Francisco, CA 94109-5400
nbuermeyer@breastcancerfund.org
(415)346-8223 x16



Sarah Janssen, MD, PhD, MPH
Senior Scientist
Natural Resources Defense Council

111 Sutter Street, 20th Floor
San Francisco, CA 94104-4540
sjanssen@nrdc.org
(415)875-6100

Cc: Cheryl Falvey
Dr. Michael Babich