

May 3, 2013

Interstate Chemicals Clearinghouse
c/o Dr. Alex Stone, Senior Chemist
Safer Chemical Alternatives
Washington Department of Ecology
Hazardous Waste & Toxics Reduction – HQ
PO Box 47600
Olympia, WA 98504-7600

RE: Public Comment on *Guidance for Alternatives Assessment and Risk Reduction*

Dr. Stone:

I am writing today on behalf of the Association of Washington Business (AWB) regarding the Interstate Chemicals Clearinghouse's (IC2) draft-Guidance for Alternatives Assessment and Risk Reduction (draft-Guidance).

AWB is the Washington state's oldest and largest statewide business association, representing more than 8,000 member companies as the state's Chamber of Commerce, as well as the Manufacturing and Technology Association. While our membership includes well-known, larger employers in the state, more than 90 percent of AWB members employ fewer than 100 people and more than half of our members employ fewer than 10.

Based upon conversations within our broad membership, it is our understanding that several of our members will be submitting technical comments related to issues such as; Exposure, Hazard, Life Cycle Analysis, Scoping Modules, etc. Having reviewed many of these comments from our member companies, AWB wishes to add its supports to the those technical concerns being noted on the aforementioned issues, and would ask for IC2 to include incorporate changes to the draft-Guidance as recommended through industry comments.

As a business community we acknowledge there is an ongoing need for product review and safety improvements, to better protect the environment and human health and

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safety. There also, however, is a reasonable approach to review product development and manufacturing processes. These processes are complex, and include compliance with numerous standards and laws.

Given the technical nature of the draft-Guidance document, we refer you to the industry experts comment letters provided by many of our members companies and will use the remainder of AWB's comments to focus on several process concerns.

First, the development of the draft-Guidance document was limited to members of the IC2, which only includes state, local and tribal government representatives. While industry experts have tracked IC2's process, their direct involvement was limited. For instance, as we understand it, the Technical Alternatives Assessment Guidance team didn't include any members from the broader business community.

Instead, industry experts were only provided with limited opportunities to comment. These opportunities included:

- Invitations to comment on individual pieces of the developing modules;
- During a series of Industry hosted webinars on alternative assessments; and
- Final comment on the draft-Guidance.

It is our understanding that industry chose not to comment on piecemeal release of the modules, in part, because of the lack of understanding on how the individual pieces would work connected to the whole. In addition, while industry is grateful IC2 was willing to allow industry to host the webinars, it is unclear how the knowledge and experience shared has been incorporated into the current draft-Guidance.

Since IC2 used federal funding to develop the scientific methodology and standards in the draft-Guidance, we believe that IC2 should have directly included business/industry members in the Technical Alternatives Assessment Guidance team.

Because of the intended use of the draft-Guidance document, which is intended for a wide range of users, "including small, medium and large businesses, local, state and federal governments and other interested parties," we believe IC2 should have sought to reach consensus consistent with the National Technology Transfer and Advancement Act (NTTA) of 1995, Public Law 104-113. Reaching consensus under NTTA would require IC2 to provide business/industry a seat at the table, and inclusion in the development of the draft-Guidance document.

Next, AWB is concerned with how the IC2 draft-Guidance document will be used and implemented, which is likely to result in state-by-state interpretation and cherry-picking.

In Washington, industry stakeholders recently met with Department of Ecology (Ecology) staff to discuss the IC2 process and intended use of the draft-Guidance. During our meeting Ecology staff indicated they were likely to only use portions of the draft-Guidance document, noting the document as drafted was burdensome. Given that individual states will be gleaning their own alternative assessment process from the draft-Guidance, it is even more advantageous that industry experts should have been included in the proceeding process and development of the draft-Guidance.

Industry has long preferred a regulatory approach that provides consistency. Any process that promotes state-by-state interpretation or implementation is problematic.

Finally, as you are no doubt aware, the federal Environmental Protection Agency (EPA), through the Toxics Substance Control Act (TSCA), already has a robust process for evaluating chemicals in the market place, including an ongoing work plan to review chemicals through an alternative assessment process. It appears, however, the hazard-based approach for reviewing chemicals in the draft-Guidance document differs from the TSCA work plan announced by the EPA which is relying on a risk-based approach.

The apparent differences between IC2's and the EPA's approach is concerning. In order for any alternative assessment process to be successful it must be risk-based, which means the process will consider more than just a hazard review. It will also consider feasibility of costs, maintain or improve product efficacy, performance and usability. Any sensible alternative assessment process will need to be flexible in order to achieve an appropriate review.

In conclusion, we raised several process concerns that we believe IC2 must address before proceeding with finalizing the draft *Guidance for Alternatives Assessment and Risk Reduction* document.

To summarize, we believe IC2 should:

1. Acknowledge the lack of stakeholder input with regards to the development of the draft-Guidance document, and take a step back to allow for broad consensus that includes business/industry;
2. Remind state participants the document is "guidance," and any changes or modifications to the underlying document should also go through a robust stakeholder and public comment process; and

3. IC2 should provide an explanation of the differences between IC2's draft-Guidance and that of the EPA's risk assessments already being used under current TSCA work plans.

Thank you for the opportunity to comment on the draft version of the Guidance for Alternatives Assessment and Risk Reduction. We look forward to working collaboratively with regulators to ensure an appropriate, flexible alternative assessment process is viable.

Please let us know if you have any questions, or need clarification, based on our comments.

Sincerely,

A handwritten signature in black ink, appearing to read 'Brandon Houskeeper', with a stylized, cursive script.

Brandon Houskeeper
Association of Washington Business
Government Affairs Director