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

# Re: Draft Guidance for Alternative Assessment and Risk Reduction

# I. Introduction

The Rubber Manufactures Association (RMA) thanks the Washington State Department of Ecology for the opportunity to provide comments on the Guidance for Alternatives Assessments and Risk Reduction developed by the Interstate Chemicals Clearinghouse (IC2) ("AA Guidance"). RMA is the national trade association representing major tire manufacturers that produce tires in the United States.<sup>1</sup> We support a science-based approach to alternative assessments. While we support some of the modules contained in the AA Guidance such as the inclusion of a Cost and Availability, and Materials Management modules, we have concern that the AA Guidance does not adequately consider whether there is a risk from a chemical of concern in a priority product, and other State and Federal safety regulations products must meet. We also have concern that the guidance does not provide consideration for protection of confidential business information and trade secrets.

#### **II.** Principles of the Framework

# A. RMA urges the IC2 to consider that chemicals do not present the same risk in all products.

Reducing risk by reducing hazard is listed as a principle objective of the AA Guidance. The AA guidance states: "When an exposure assessment is part of an alternatives assessment, it should not be used to justify the continued use of chemicals of concern. Exposure reduction should be used to reduce risk by improving a product only after selecting the least hazardous option(s)." (Page 18 of 250). The mere use of a chemical of concern in the formulation of a

<sup>&</sup>lt;sup>1</sup> RMA members include Bridgestone Americas, Inc., Continental Tire the Americas, LLC;

Cooper Tire & Rubber Company; The Goodyear Tire & Rubber Company; Michelin North America, Inc.; Pirelli Tire North America; Toyo Tire Holdings of Americas Inc. and Yokohama Tire Corporation.

product does not mean there is risk of exposure to the chemical of concern as contained in the product.

For example, the process of manufacturing a tire involves vulcanization, which changes the chemical composition of the chemicals formulated into the tire in the initial stages of the manufacturing process. As a result, the risk for exposure to chemicals in tires is reduced or eliminated as the chemicals in tire formulations undergo chemical reactions during the vulcanization or heating of tires during the manufacturing process.

Manufacturers should not have to complete an alternatives assessment (AA) where there is no risk or low risk (i.e. a chemical is below a de minimis threshold) to human health or the environment from a chemical of concern in a product. RMA recommends that AA Guidance specify that exposure assessments, which assess exposure risk to human health and the environment, can be used to justify the continued use of a chemical of concern in a product where an exposure assessment shows a chemical is present in a product below a de minimis level, or there is no risk of exposure to a chemical of concern as contained in a product.

# **III.** Initial Evaluation Module

RMA recommends that risk to human health and the environment, from a chemical of concern in a product, should be considered first in determining whether an AA is necessary. The AA Guidance specifies that the purpose of the initial evaluation module is to determine whether an AA is needed for the product or process containing a chemical of concern. Additionally, the AA guidance states that if a chemical of concern can be eliminated from a product an AA may not be needed. The initial evaluation module does not include consideration of whether the chemical of concern in the product presents a risk to human health or the environment. As part of the risk assessment, we recommend the initial evaluation module include consideration of a de minimis threshold.

# IV. Identification of Alternatives Module

# A. Availability of functionally equivalent alternatives

RMA supports the two key considerations contained in the "Identification of Alternative Chemicals Module": the availability of (1) functionally equivalent alternatives and (2) the availability of alternatives in the marketplace. We recommend that the determination as to whether a functionally equivalent alternative exists, should also consider State and Federal performance or safety requirements a product that contains the chemical of concern must meet. Specifically, RMA recommends that the Identification of Alternatives Module first identify any and all State and Federal regulations a product must meet before identifying alternative chemicals. Then, meeting those regulations must be of primary importance in evaluating the availability of functionally equivalent alternatives

For example, the National Highway Traffic Safety Administration (NHTSA) requires that all tire manufacturers self-certify that tires sold in the U.S. meet Federal Motor Vehicle Safety Standards (FMVSS). The chemical ingredients in tires are present because they impart critical

functions to meet NHTSA FMVSS and the composition of tires cannot be modified without great care. Changes in tire composition could affect critical attributes such as stopping distance, tire wear, tire fuel efficiency and other safety-related features. Any change in the composition of tires typically requires feasibility studies and lengthy, multiple tests to ensure that the tires continue to meet FMVSS.

Consideration of other State and Federal safety regulations such as the FMVSS established by NHTSA should be included when determining the availability of functionally equivalent alternatives. Alternative chemicals that would not enable a product to meet State or Federal performance or safety regulations, at the same level as maintaining the chemical of concern in the product, should not be considered.

#### **B.** Alternatives available in the marketplace

In determining whether there are alternative chemicals available in the marketplace, the AA guidance specifies that entities should consider whether there are similar products offered for sale that use an alternative chemical. The AA guidance also indicates that entities should consider whether manufacturers advertise their product as free of the chemical of concern and whether the chemical manufacturer(s) offer alternatives. We have concern that the AA Guidance does not recognize that for some products, this information may provide a competitive advantage for a company, and that this information is likely considered confidential business information and not available in the public domain.

RMA recommends that the "Alternatives available in the marketplace" module should also include consideration of whether alternative chemicals are cost prohibitive or in sufficient supply in the marketplace. We recommend that the AA Guidance include as part of the consideration of availability of alternatives in the marketplace the cost and availability module. If an entity determines that alternative chemical(s) are cost prohibitive and/or not available in sufficient supply, the entity should not have to continue completion of the alternatives assessment.

## V. Performance Module

The performance module ensures that the alternatives considered are technically feasible for the desired application and that the product meets performance requirements. Performance requirements are often established by State and Federal laws that regulate the performance and safety of a product. RMA strongly recommends that the AA Guidance include as part of the process for evaluating performance, consideration of State and Federal regulations which specify specific performance characteristics or road safety criteria or enhanced performance for a product.

#### VI. Hazard Module

The hazard module specifies that information on hazard traits can come from either experimental data or modeled data. Experimental data is considered by the AA guidance to be more reliable than modeled data. Modeled data is based on extrapolations from known

information and is not as reliable as experimental data. RMA recommends that wherever possible, experimental data is used to evaluate hazard. (See Table 1 - RMA Recommendations for Hazard Module).

#### VII. Cost and Availability Module

RMA supports the inclusion of the cost and availability module in the AA guidance. Again, we recommend that the guidance consider evaluation of cost and volume available of potential alternatives as part or in conjunction with the identification of alternatives module.

## VIII. Materials Management Module

RMA supports the inclusion of the Materials Management Module in the AA Guidance. This module evaluates whether the use of a potential alternative will impact natural resources and the generation of waste. Removal of a chemical of concern from a product can cause adverse impacts. For example, potential alternatives for a chemical of concern in a tire may impact not only the ability to meet FMVSS, but may adversely impact Corporate Average Fuel Economy (CAFE) standards. CAFE standards were enacted by Congress in 1975 to reduce energy consumption by increasing the fuel economy of cars and light trucks. CAFE standards for cars and light trucks are established by NHTSA. The U.S. Environmental Protection Agency (EPA) provides NHTSA fuel economy data which NHTSA uses to set the CAFE standards. In regard to tires, low rolling resistance is an important attribute that automobile manufacturers require to enable them to meet fuel efficiency targets under the CAFE standards. The substitution of an alternative chemical for a chemical of concern in tires could affect tire manufacturers' ability to produce tires that allow new automobiles to meet the CAFE standards. Consideration of adverse impacts caused by chemical substitution is an important consideration that should be included in the AA guidance.

# IX. Decision Making Module

# A. RMA does not support the use of the Simultaneous Decision Framework

The AA Guidance includes three decision making frameworks: (1) sequential, (2) simultaneous, and (3) hybrid. In the simultaneous decision framework, all potential alternatives are evaluated at the same time and then compared. Evaluation of several alternative chemicals at the same time is likely to be costly and time consuming, and may not be possible for all products.

Tires are highly engineered products and the chemical ingredients in tires cannot be modified without great care. Most of the chemicals present in tires are included because over many years the design process has determined that the chemical works best among the components of the tire to impart a physical or chemical property into the tire that is essential for its function (road safety). Tire manufacturers must consider a number of factors during the process of reformulating various tire components or compounds to replace a chemical of concern with another chemical. For example, tire manufacturers may conduct: laboratory studies to mix and cure new rubber samples, develop tire prototypes, perform machine and road testing, conduct initial production of reformulated tires in the plant, and test reformulated tires for

performance (rolling resistance, traction, wear) and safety to comply with FMVSS established by the NHTSA.

Analyzing several chemicals at one time may not be possible for tire manufacturers due to machinery limitations and/or limitations regarding the number of testing facilities available. For products that must meet State or Federal performance or safety standards, simultaneous testing of alternative chemicals should not be required. The AA guidance should provide flexibility for manufacturers to determine the most cost effective and practical means of assessing alternatives rather than prescribing a specific or preferred approach.

## X. Conclusion

RMA recommends the AA Guidance be revised to include first, consideration of whether there is a risk from a chemical of concern in a priority product. We also recommend that the guidance be revised to include consideration of other State and Federal regulations that regulate the safety and performance of products. Last, we recommend the guidance provide consideration for confidential business information and trade secrets that are protected by State and Federal law.

RMA again thanks the Washington State Department of Ecology for the opportunity to provide comments on the Guidance for Alternatives Assessments and Risk Reduction developed by the Interstate Chemicals Clearinghouse (IC2). Please contact me at (202) 682-4836 if you have questions or require additional information.

Respectfully Submitted,

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