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May 5, 2015

Via the Federal eRulemaking Portal

Ms. Wendy Cleland-Hamnett
Director
Office of Pollution Prevention and Toxics
Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

Re: Implementation of a New Label for the Design for the Environment (DfE) Safer Product Labeling Program and Supporting Modifications to the DfE Standard for Safer Products; Notice of Availability (Docket No. EPA-HQ-OPPT-2015-0047)

Dear Director Cleland-Hamnett:

The American Cleaning Institute® (ACI) appreciates the opportunity to respond to the U.S. Environmental Protection Agency's (EPA's) call for comments on the "Implementation of a New Label for the Design for the Environment (DfE) Safer Product Labeling Program and Supporting Modifications to the DfE Standard for Safer Products". ACI members formulate soaps, detergents and general cleaning products used in household, commercial, industrial and institutional settings and companies that supply ingredients and finished packaging for these products. Therefore, they are directly impacted by the DfES after Product Labeling Program (SPLP) and modifications to the DfE Standard for Safer Products (Standard).

Comments on the Safer Product Labeling Program's (SPLP) Standard and Management – Programmatic

ACI is concerned with the approach taken by EPA to develop the SPLP and associated Standard. In contrast to tenets from organizations such as the American National Standards Institute (ANSI) and the International Organization for Standardization (ISO), EPA has disregarded a

¹The American Cleaning Institute® (ACI) is the trade association representing the \$30 billion U.S. cleaning products market. Our members include the formulators of soaps, detergents and general cleaning products used in household, commercial, industrial and institutional settings; companies that supply ingredients and finished packaging for these products; and oleochemical producers. ACI and its members are dedicated to improving health and the quality of life through sustainable cleaning products and practices. ACI's mission is to support the sustainability of the cleaning products industry through research, education, outreach and science-based advocacy. Since 1926, ACI has promoted health through personal hygiene and effective cleaning. More information about ACI can be found at www.cleaninginstitute.org.

number of guidelines related to the process of developing standards, measuring their environmental effectiveness, and managing the standards programs.

As example, standard development guidance collected by EPA, General Services Administration (GSA) and other federal agencies summarized in the *Draft Guidelines for Product Environmental Performance Standards and Ecolabels for Voluntary Use in Federal Procurement*, describes many ANSI Essential Requirements for developing a standard. Many of these requirements were not followed such as: open participation, open voting, communication of progress, transparency, consideration of all viewpoints during development, consensus effort, efforts to resolve objections, appeals mechanism, and an open appeals procedure. Further, it is documented that a single group was convened under the Green Chemistry and Commerce Council to provide guidance for the SPLP. This group was not open to all stakeholders, nor were the decisions made by the group transparent or communicated. In addition, no notice to the public and no opportunity to comment or offer input into the development of “fragrance-free” criteria and label was extended to stakeholders. Unlike past revisions to the standard, ACI, its members and other stakeholders did not have the opportunity to provide input on the Standard’s criteria prior to its release.

As for measuring environmental effectiveness, the Standard does follow some of the principles of green chemistry (intrinsic hazard and ingredient disclosure), but falls short in several areas such as measurability and significant measurable difference, identification of ‘hotspots’, and consideration of lifecycle stages. Some of these deficiencies were captured in the September 9, 2014 Office of Inspector General (OIG) report, *EPA Can Help Consumers Identify Household and Other Products with Safer Chemicals by Strengthening Its “Design for the Environment” Program*. The weaknesses noted in the report include measurement of SPLP results and unsupported benefit claims. The report outlines several recommendations that should be addressed including, “...the development of robust, transparent and adequately supported performance measures that capture the DfE program’s results.” While the response from DfE staff indicates that a new program management system will help capture relevant data such as production volumes and sales information on labeled products, these will not address all the deficiencies noted above.

The OIG report also notes deficiencies related to conformity assessment which will not be addressed in ACI’s comments, but should be addressed by EPA.

Gaps exist in the management of the SPLP according to ISO guidelines. We are unaware of documented policies and procedures for the resolution of complaints, appeals and disputes. According to guidelines, the SPLP should also provide the formal rules and procedures for balancing interests across stakeholders. There also does not exist a periodic analyses of the uptake of the ecolabel in the marketplace.

Specific Comments on Standard Criteria

General

In several sections, the term ‘fragrance’ is used (3.8.3, 3.9, 4.5.8, 5.6) without definition, including the use of “fragrance-free” as a label option. ACI recommends defining the term

‘fragrance’ with the input of industry experts or replace the term in the Standard with ‘fragrance material’.

Section 3.9 Fragrance-free Label

The Standard wrongly prohibits dual functionality ingredients. Many materials with aromatic properties including solvents and surfactants are formulated into products for their cleaning functions. As these ingredients are evaluated against their functional class criteria and not the Safer Choice Interim Fragrances Criteria, their exclusion from a “fragrance-free” product is inappropriate. ACI recommends this criterion be deleted from the Standard.

Further, ACI is concerned that the definition of “fragrance-free” as described in the Standard is inconsistent with industry practices. This inconsistency could lead to confusion because products with “fragrance-free”, “scent-free”, “no perfume” or other like-worded phrases on their label can earn the Safer Choice label and maintain their fragrance claims. The SPLP should have consulted experts and stakeholders in order to understand fragrance industry standards before establishing a separate criterion for “fragrance-free”. ACI therefore recommends the “fragrance-free” option be omitted from the Standard.

Section 5.6

See general comment above.

Section 5.6.1 Sensitizers in Labeled Products

ACI is concerned that fragrances are called out in this criterion. The criterion infers that little data on sensitization exists for fragrance materials (here only called out as fragrances though ‘fragrance’ is no longer defined in the Standard). ACI recommends this criterion be revised or deleted with input from industry experts.

Conclusion

As the development of the Standard and management of the SPLP failed to follow many of the guidelines set by standard setting organizations, ACI recommends that EPA re-evaluate and update procedures accordingly and put those into practice. The criteria set out in the EPA authored *Draft Guidelines for Product Environmental...* should be considered and implemented.

In the interim, ACI requests that DfE be transparent to stakeholders and create an area on the Standard section of the website where all the comments received and EPA responses will be publicly available.

While ACI and its members are long-standing partners who look towards the successful implementation of the SPLP as beneficial to both the environment and industry, we believe current shortcomings in the SPLP and Standard will not reach pollution reduction goals and will confuse consumers. ACI requests that EPA continue to consult with stakeholder experts until the issues highlighted are addressed. We appreciate the opportunity to comment, and look forward to your response.

Respectfully submitted,

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American Cleaning Institute

cc: James Jones, Assistant Administrator
Clive Davies, Chief of the Design for the Environment Program