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Subject: HCPA Comments on Stakeholder Engagement Opportunity for the Safer Choice and Design for the Environment Programs' Potential Expansion Into New Product Categories; Docket ID No. EPA-HQ-OPPT-2023-0311

The Household & Commercial Products Association¹ (HCPA) appreciates the opportunity to provide input on the Environmental Protection Agency's (EPA) Safer Choice and Design for the Environment (DfE) programs' potential expansion of their certification to new product categories.²

Background

HCPA represents approximately 230 companies engaged in the manufacture, formulation, packaging, distribution, and sale of products for household, commercial, institutional, and industrial use. Our mission is to protect, promote, and enhance the household and commercial products industry and the lives of consumers and workers who use our member companies' products. HCPA is proud to count 30 formulators of Safer Choice or DfE-certified products as member companies, plus at least 17 additional chemical manufacturers who produce ingredients listed on the Safer Chemical Ingredients List (SCIL). HCPA also maintains a Consumer Product Ingredients Dictionary which provides standardized nomenclature that aids in

¹ The Household & Commercial Products Association (HCPA) is the premier trade association representing companies that manufacture and sell \$180 billion annually of trusted and familiar products used for cleaning, protecting, maintaining, and disinfecting homes and commercial environments. HCPA member companies employ 200,000 people in the U.S. whose work helps consumers and workers to create cleaner, healthier and more productive lives.

² Stakeholder Engagement Opportunity for the Safer Choice and Design for the Environment (DfE) Programs' Potential Expansion Into New Product Categories, 88 Fed. Reg. 48463 (July 27, 2023), <https://www.federalregister.gov/documents/2023/07/27/2023-15912/stakeholder-engagement-opportunity-for-the-safer-choice-and-design-for-the-environment-dfe-programs>

the transparency efforts of Safer Choice.³ HCPA's membership also includes several companies that are potential future Safer Choice partners. HCPA is a longstanding champion of the Safer Choice Program and has dedicated significant resources to increasing the engagement of HCPA members with Safer Choice and DfE and raising awareness of the program. HCPA is honored to have received Safer Choice Partner of the Year Awards in 2022, 2021, 2020, 2019, 2017, 2016, and 2015.

HCPA's advocacy on behalf of Safer Choice and the related DfE program included organizing a coalition of 60 diverse stakeholders, including cleaning product manufacturers, chemical producers, trade associations, state and local governments, and NGOs, to advocate for the restoration and growth of the program by the Biden Administration in 2021. This HCPA-driven show of support proved successful when the Agency announced in November of 2021 that it would not only restore the program, but also add new product categories, identify additional safer chemicals for use in products, and strengthen its standards. We are delighted to see the Agency acting on its commitment to add new product categories to Safer Choice and DfE and greatly look forward to continuing to engage with the program as it grows.

General

As EPA explores new categories for expansion, HCPA encourages the Agency to consider undertaking the following activities, which could add great value regardless of the specific categories the program expands to:

- 1) Corresponding education initiatives about Safer Choice and DfE targeting consumer and commercial buyers and users of the selected new product categories.

While many purchasers of cleaning and antimicrobial products are already familiar with the Safer Choice and DfE labels, awareness is expected to be more limited among purchasers of products that the program does not currently certify. Further, even purchasers already familiar with Safer Choice and DfE will not know to look for the label on new product categories. Increasing user recognition and understanding of the Safer Choice and DfE label on the product categories that EPA expands to will encourage greater use of safer products and help make the effort of engaging in this program economically feasible for companies that rely on user adoption. HCPA commends EPA for the comprehensive Safer Choice Media Kit that the Agency has developed,⁴ which provides invaluable resources for companies looking to communicate about the certifications, and encourages EPA to create new product category-specific messaging as well as engage in an active outreach campaign about the expansion.

³ <https://www.productingredients.com>

⁴ <https://www.epa.gov/saferchoice/safer-choice-media-kit?s=home>

- 2) A third-party assessment that evaluates consumer and commercial buying preferences and how the Safer Choice and DfE logos might impact purchasing and use decisions within those user populations.

While there have been assessments of how sustainability certifications or eco-labels in general affect purchasing decisions, HCPA and our members are not aware of one specific to the Safer Choice and DfE labels. Such a study would provide EPA with valuable insight into how the expansion effort will translate into meaningful improvements in the human and environmental health of our communities. Additionally, the study could help EPA justify potential future expansions to the categories, criteria, or resources associated with the Safer Choice and DfE. The study could also help EPA identify whether there are gaps in the consumers and commercial buyers of Safer Choice and DfE-certified products being reached by the program's current media outreach (*i.e.*, if one user population is significantly less aware of the Safer Choice or DfE label than others). HCPA encourages EPA to utilize a qualified third party, such as a market research firm, to evaluate how the Safer Choice and DfE logos might impact purchasing and use decisions within target consumer and commercial user populations.

Specific Product Categories – Design for the Environment

Minimum Risk Pesticides

HCPA recommends that EPA expand the DfE program to include “minimum risk pesticides” (also known as “25(b) pesticides”) that meet the exemption criteria from registration under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).⁵ Pesticides are used to control various pests, such as mosquitoes or mice, as well as used to control weeds, insect infestation, and diseases. Such products are essential for protecting consumers and workers from unwanted pests and increasing overall quality of life. At the same time, concerns have been raised regarding impacts on human health and the environment from exposure to pesticides. These concerns are greatest in underserved communities that experience disproportionate and adverse human health or environmental burdens. The cumulative burdens of poor air and water quality as well as exposure to toxins from hazardous waste sites and landfills lead to poorer health outcomes and lower life expectancies than for those who reside in more affluent neighborhoods. Given that EPA has determined that certain “minimum risk pesticides” pose little to no risk to human health or the environment and accordingly exempted them from the requirement that they be registered under FIFRA, offering such products to these disadvantaged communities could help relieve the daily chemical burdens already experienced by these populations. Expanding the DfE certification program to include minimum risk pesticides could help consumers and commercial buyers identify products that meet health, and safety standards under FIFRA as well as the strict environmental and health criteria of the Safer Choice Standard, thereby providing a better quality of life for all citizens.

⁵ 40 CFR § 152.25(f)

Minimum risk pesticides consist of active ingredients, which are the ingredients that kill, repel, or mitigate the pests identified on the product label, and inert ingredients, which are all ingredients (other than impurities) that are not active ingredients. The functional uses of typical minimum risk pesticide active and inert ingredients are similar or identical to the functional uses of the chemicals typically used in the antimicrobial products already certified by DfE. Ten of the active ingredients allowed in minimum risk pesticides by EPA are already listed on Safer Choice and DfE's Safer Chemical Ingredients List (SCIL), including one approved as an active for antimicrobial products and one approved as a preservative and antioxidant.⁶ Additionally, at least 102 inert ingredients allowed in minimum risk pesticides by EPA are already listed on the SCIL.⁷ It should be possible for product manufacturers to formulate DfE-compliant minimum risk pesticides without needing to wait for a substantial number of additional chemicals to be added to the SCIL.

Like other pesticide products, including antimicrobial products already included within DfE, minimum risk pesticides may be offered for recycling if available or discarded in the trash once the consumer or worker has used up the product. If there is still some product left in the container, the consumer or worker may bring the product to their local hazardous waste or household hazardous waste (HHW) collection site. Additionally, as with other pesticide products, minimum risk pesticides include on-pack labeling that provides information on appropriate storage and disposal. There are not substantive differences between how consumers and workers dispose of minimum risk pesticide products versus other pesticide products (antimicrobials) currently included within DfE.

Minimum risk pesticides should not themselves contain per- and polyfluorinated alkyl substances (PFAS) except, potentially, as impurities, but concerns have been raised regarding the presence of PFAS in plastic packaging used for pesticides and the potential for leaching into the pesticide formulations. We greatly commend EPA for developing a targeted method and conducting a rigorous analysis of the pesticide products in question in order to satisfy stakeholder concerns.⁸ We believe that the marketplace would find value in a certification that clearly delineates certain pesticide products as being free of PFAS, as this provides more clarity for buyers and encourages product manufacturers seeking the certification to conduct strong due diligence throughout their supply chain, thus lowering the likelihood of EPA needing to conduct complex and time-consuming testing on specific pesticide products in response to a public outcry.

HCPA recommends that EPA specifically include minimum risk pet pesticide products along with other minimum risk pesticides in an expansion of the DfE program. Parasite treatment products applied topically to animals (including pets) are generally regulated by EPA as pesticides if they remain on the skin to control only external parasites (*e.g.*, a spray, spot-on,

⁶ <https://www.epa.gov/sites/default/files/2018-01/documents/minrisk-active-ingredients-tolerances-jan-2018.pdf>

⁷ https://www.epa.gov/sites/default/files/2016-11/documents/minrisk_inert_ingredients_w_tolerances_2016-11-16.pdf

⁸ <https://www.epa.gov/system/files/documents/2023-05/BEAD%20PFAS%20Study%20Results%202023.pdf>

collar, shampoo, or dust to control fleas and ticks). These pet products are eligible to meet the requirements for minimum risk pesticides under FIFRA and there are many on the market today that successfully do so. Minimum risk pet pesticide products use similar ingredients and are disposed of in a similar fashion as other minimum risk pesticide products and the antimicrobial products that DfE already certifies. The PFAS concerns discussed above for pesticides generally are also applicable to pet pesticides. Additionally, Safer Choice already certifies non-pesticidal pet shampoos and sprays and can draw on this expertise when looking at pet products with pesticide claims under DfE. HCPA encourages EPA to include minimum risk pet pesticide products as part of the broader proposed DfE expansion to minimum risk pesticides, giving pet owners more opportunity to find and select products that keep their pets healthy as well as meet stringent EPA criteria for efficacy and human and environmental health.

Adjuvants

HCPA additionally recommends that EPA expand the DfE program to specifically include pesticide adjuvants (chemicals designed to improve the performance of a pesticide that are sold separately and mixed with the pesticide prior to application). Adjuvants are similar to inert ingredients and in some cases, can be the same ingredient; the difference in whether they are termed an inert or an adjuvant lies in when they are added to a formulated pesticide product and their intended purpose of use. As such, several pesticide adjuvants are already listed on the SCIL. Since pesticide adjuvants are intended to be mixed with a pesticide prior to use, they are disposed of in the same fashion as the pesticide, such as the antimicrobial products already certified by DfE.

HCPA recognizes that the DfE program currently allows for adjuvants packaged with a pesticide to use the DfE logo if both pesticide and adjuvant meet the logo criteria. We believe there is a need for a set of DfE-certified adjuvants that can be used translationally and flexibly across many different pesticide registrations. As we see more adaptable pesticide application requirements that differ by geography due to Endangered Species Act (ESA) obligations and other environmental mitigation requirements, companies increasingly may look to use the same pesticide combined with different adjuvants across different geographies. The current DfE certification option for adjuvants, which only applies to those cases where an adjuvant is packaged with the pesticide, is thus of limited utility. The availability of a fully independent adjuvant that could be marked with the DfE logo would give purchasers more visibility into adjuvants that meet the rigorous requirements of the Safer Choice standard and help them achieve geographic flexibility as needed while protecting human and environmental health.

Biopesticides

HCPA notes that biopesticides, which are derived from natural materials such as animals, plants, bacteria, and certain minerals, have been recognized as a lower-risk pesticide category by EPA,⁹ similar to minimum risk pesticides as discussed above, and appear to be nominally eligible for the DfE logo,¹⁰ but in practice none have been certified that HCPA is aware of. We believe that there is an opportunity for EPA to update and expand the DfE program to fully encompass biopesticides. As EPA considers updates to the Safer Choice Standard and criteria in the coming months, we would greatly appreciate the opportunity to provide input on potential updates to the Standard that would facilitate the review and approval of biopesticides by the DfE program and meet with EPA to discuss ways to move forward.

Specific Product Categories – Safer Choice

Assembled Products

HCPA suggests that EPA explore expanding Safer Choice to include assembled-type products, which could include industrial and automotive products such as construction materials or health and household products such as wipes and candles. Safer Choice has historically focused the program's certification efforts on chemically formulated goods, providing immeasurable value to the sectors currently included in Safer Choice. However, there are not comparable certifications for assembled products that use chemicals in their production and that are formed into a specific shape for their end use rather than sold as a liquid formulation. This limits the opportunities for such products to achieve the same transparency and credibility with regard to chemical ingredient safety and performance that cleaning products have achieved through the Safer Choice certification. Safer Choice already certifies some assembled-type products – for example, disposable cleaning wipes when they are the intended method of application for a cleaning formulation – and could build on that expertise when exploring other assembled-type product categories to expand to. The absence of a Safer Choice-type certification for assembled products makes it more difficult for consumers and commercial buyers to make informed purchasing decisions and select products that are made with safer ingredients for people and the environment.

Microbial Products; Fragrance Encapsulation

HCPA additionally notes that, given the growing interest in products based on green and sustainable chemistry, the household and commercial products industry has recognized the need to develop information that addresses the concerns Safer Choice has expressed regarding microbial-based products and products that utilize fragrance encapsulation. Microbial products rely on living microorganisms to achieve the desired performance (for example, tough stain removal) through biological processes rather than chemicals. Fragrance encapsulation allows for

⁹ <https://www.epa.gov/ingredients-used-pesticide-products/what-are-biopesticides>

¹⁰ <https://www.epa.gov/pesticide-labels/design-environment-logo-biopesticide-products>

the controlled release of a fragrance when it is needed during a product's use, meaning that less fragrance is needed to achieve the desired scent, and the fragrance lasts longer, promoting longer use of the product. HCPA and our members are working on collecting information on safety and exposure that would allow Safer Choice to assess products that use these technologies for compliance with the Safer Choice standard. While this work is not yet complete, we anticipate being able to share our findings in the coming months. We would greatly appreciate the opportunity to meet with Safer Choice to discuss our approach and our findings once complete.

Conclusion

HCPA thanks the EPA for the opportunity to provide our feedback on the potential expansion of the Safer Choice and DfE programs to new product categories. We are excited about the potential expansion opportunity and future growth of the program. We invite any questions about this submission and look forward to EPA's response.

Sincerely,

A handwritten signature in black ink, appearing to read "Molly R. Blessing". The signature is fluid and cursive, with the first name "Molly" and last name "Blessing" clearly distinguishable.

Molly R. Blessing

Director, Sustainability