March 22, 2013

The Honorable Cal Dooley, President & CEO
American Chemistry Council
700 2nd Street, NE
Washington, DC 20002

Dear Mr. Dooley:

Thank you for your letters of August 13 and 24, 2012, and March 15, 2013, regarding the operations of the independent Chronic Hazard Advisory Panel on Phthalates and Phthalate Substitutes (CHAP). Because the safety of phthalates and phthalate substitutes is a very important public health issue, effective implementation and enforcement of the requirements of section 108 of the Consumer Product Safety Improvement Act of 2008 (CPSIA) have been a high priority for me as Chairman.

In section 108(b)(2) of the CPSIA, Congress required the Consumer Product Safety Commission (CPSC) to appoint an independent CHAP to conduct a de novo examination of the effects on children’s health of all phthalates and phthalate alternatives used in children’s toys and child care articles and for the CHAP to submit a final report to the agency after the completion of its examination. After submission of the CHAP’s final report, the agency must commence related rulemaking in accordance with section 108(b)(3) of the CPSIA. The CHAP has undertaken its independent examination and is currently drafting its report. I am very eager for the CHAP to complete its work and for the agency to proceed as efficiently as possible to discharge its statutory obligation by beginning rulemaking.

The CHAP independently decided to obtain a scientific peer review of its draft final report as a prerequisite to its submission of a final report to the agency. The CPSC apprised the CHAP of your request for the CHAP members to participate in a public peer review process, and the CHAP unanimously declined the request. Accordingly, CPSC plans to assist the CHAP in
executing its scientific peer review of the draft final report while maximizing the transparency of
this process to the extent practicable by proceeding as follows:

The CHAP’s draft final report will be sent to scientific peer reviewers nominated
by the National Academy of Sciences (NAS). These peer reviewers will be tasked
with conducting a rigorous scientific review of the draft final report and will
submit their comments to the CHAP. The CHAP will then consider the comments
submitted by the peer reviewers and complete and submit its final report to CPSC.

After the peer review is completed and the CHAP submits its final report to
CPSC, the agency plans to release publicly the final report and commence
rulemaking in accordance with the statutory requirements contained in section
108(b)(3) of the CPSIA. Consistent with my commitment to transparency, the
agency also anticipates publicly releasing the:

- CHAP’s draft final report,
- peer reviewers’ comments on the draft final report submitted to the CHAP,
- charge questions submitted to the peer reviewers, and
- identities and affiliations of the peer reviewers.

Through the CHAP’s submission of its independent and final scientific report to the agency and
CPSC’s subsequent release of the CHAP’s peer review materials, CPSC is respecting the
independence of the CHAP to determine the most suitable peer review process for its report
while also proceeding in an open and transparent manner prior to completing the rulemaking
required by section 108 of the CPSIA. I have consulted with CPSC’s expert scientific staff
regarding the peer review plan outlined above, and they are confident the process is widely
accepted and consistent with recognized practices in the scientific community. In addition, the
CHAP and CPSC staff believe this process certainly satisfies scientific standards for a report of
this nature.

As you noted in your most recent letter, an essential tenet of my leadership at CPSC is making
the operations of the agency open and transparent to the public. The agency’s involvement in the
CHAP process has been no exception, and to date the public has had numerous opportunities to
submit information and present its views—either in written or oral form—to the CHAP for its
consideration as it works to draft and finalize its report. After the CHAP has subjected its draft
final report to scientific peer review and submits its final report to the agency, I can assure you
that all interested parties will have yet another chance to submit comments to the agency directly
as a part of the phthalates rulemaking required by section 108(b)(3) of the CPSIA.
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The safety of children is at the heart of our work at CPSC and will remain so while I am Chairman. Children, parents, and all consumers deserve a process that is scientifically rigorous, efficient, and transparent. We have achieved a proper balance in this regard and thus will proceed accordingly upon receipt of the final CHAP report.

Very truly yours,

[Signature]

Inez M. Tenenbaum