

In the Matter Of:  
DTSC WORKSHOP

WORKSHOP

May 28, 2014

Reported By: Debra Acevedo-Ramirez CSR No 7692

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DTSC WORKSHOP

REPORTER'S TRANSCRIPT OF PROCEEDINGS

WEDNESDAY, MAY 28, 2014

Reported by: Debra Acevedo-Ramirez, CSR No. 7692

1 Oakland, California

May 28, 2014

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MS. RUBIN: I'm Marcia Rubin. I'm a public presentation specialist with DTSC. So I'm head facilitator and will go over the framework and a couple of ground rules, some housekeeping. We all found the restroom.

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This is Andre Algazi. He is going to answer any policy questions. He'll be moderating the meeting as well, and Dr. Rob Brushia is going to be the presenter for this topic. He's the lead for this chemical, so we want to just ask everyone to respect each other, limit cross communication while the presentation is going on, quiet your phones, tablets, smart watches, whatever you have that may be beeping.

You know, let us know you would like to speak. Just raise your hand, so we can all -- you know, have our say.

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Dr. Brushia is going to give a short presentation and then there are going to be three discussion topics, so we can kind of make this more of a conversation. And we do have a court reporter here as well recording everything. Debbie is just sitting here.

1 So, please, when you speak, give your name and, you  
2 know, what organization, if you are affiliated with  
3 anyone, so that she can, you know, keep track of that  
4 for us.

5 And with that we'll get started.

6 UNKNOWN SPEAKER: Are we going to have access  
7 to the things that are recorded from the workshop?

8 MR. ALGAZI: We'll be publishing -- I think  
9 we'll be posting the transcripts from the court  
10 reporter. That's the plan to post them on our Website.  
11 It takes a period of time to get the transcripts, so we  
12 will be posting it. It will be available.

13 DR. BRUSHIA: Well, thank you all for coming.  
14 Before I start with the presentation, I just want to  
15 take a minute to clarify for you who are here that the  
16 profiles that we posted online for these proposed  
17 priority products. They are not a regulatory document  
18 as you heard Carl saying earlier. What they are is as  
19 Andre posted in snapshot in time, but they're a  
20 summation, our regulations for identifying products  
21 spell out a bunch of factors that we are to consider,  
22 and what the profiles are is basically a summation of  
23 the information we had related to those prioritization  
24 factors, and that's all it is.

25 So I got a lot of comments the last during the

1 last public workshop that there is a lot of weak  
2 information, there is stronger information. Indeed  
3 there is.

4 What there is the information we could find  
5 pertaining to all factors listed in the regulations.  
6 That's all the profiles are.

7 Okay. And so, I'm just going to present a  
8 real brief discussion. It's basically a summation for  
9 methylene chloride paint strippers. I'm going to talk  
10 about the product definition. We made some changes to  
11 the definitions since we initially listed the profiles.  
12 I'll talk about the chemical of concern, what prompted  
13 us to select methylene chloride. We're going to talk  
14 about some hazards and exposure information we have, and  
15 some information on possible alternatives, and then  
16 we're going to finish up with a brief discussion of  
17 market information and then go into the discussion and  
18 open it up for comment.

19 So initially in the profile we had talked  
20 about methylene chloride paint strippers and surface  
21 cleaners. Okay. Where that came from was we originally  
22 opted to look at the global product classification  
23 system and its definition for paint stripping  
24 formulations, and that definition that was in our  
25 original profile was cut and pasted right out of there,

1 right out of global classifications definition for paint  
2 strippers.

3 Okay. Since that time, we know -- we are  
4 aware that, for example, the California Air Resources  
5 Board prohibits the use methylene chloride in a whole  
6 variety of surface cleaning formulations. So we have  
7 decided we are not going to use surface cleaners. We'll  
8 be specific as we can in listing paint strippers  
9 focusing on paint and varnish strippers.

10 Our new definition -- here is a brief  
11 summation -- it's here in more detail. This is the  
12 proposed definition for the product as it stands.

13 MR. ALGAZI: So that's not.

14 MS. RUBIN: The walls are covered in fabric  
15 and you can't put anything on them.

16 DR. BRUSHIA: I saw methylene chloride. It's  
17 right here.

18 MR. ALGAZI: This is in the regulatory concept  
19 documents that's posted on our Website. This is very  
20 friendly for anybody even a few feet away to read but...

21 DR. BRUSHIA: Basically we're refocusing on  
22 paint strippers and varnish strippers. You can read the  
23 document. We're defining it as a product that contains  
24 methylene chloride as sold as paint or varnish stripper.  
25 That's described to break down paint or varnish to

1 facilitate its removal from the surface, okay, and that  
2 may or may not include reference to the global products  
3 classification brick code that applies to paint  
4 strippers. We're exploring that. We're looking at  
5 feedback from folks on whether we should also use that  
6 brick number.

7 We would probably exclude specifically all  
8 products -- I mean, with the use of specific language  
9 that we would exclude all products in which the use of  
10 methylene chloride was already prohibited by the  
11 California Air Resources Board under their regulation  
12 for reducing emissions from consumer products. Okay.  
13 We would also exclude things such as paint and paint  
14 additives.

15 Okay. So, why methylene chloride?

16 Yes?

17 UNKNOWN SPEAKER: Are there questions as we go  
18 along or...

19 MR. ALGAZI: We're going to have -- clarifying  
20 questions are fine. Sure.

21 UNKNOWN SPEAKER: So I'm kind of confused in  
22 the documents that are online right now that say what  
23 does paint stripper include for purposes of this  
24 regulation and it lists. That's what you're looking at  
25 right now or are you saying that's changed?

1 DR. BRUSHIA: Depends on what documents you  
2 are looking at online. We're saying the profile -- the  
3 original priority product profile --

4 MR. ALGAZI: It's a 20-page PDF.

5 DR. BRUSHIA: Right. It had one definition  
6 pretty extensive that included surface cleaners.

7 Our more revised regulatory concept, which is  
8 now online which we're modifying as we move ahead would  
9 exclude the surface cleaners because they are already  
10 regulated under the California Air Resources Board.

11 UNKNOWN SPEAKER: If you want to take a look  
12 at this, I'll put it on one of the tables later.

13 DR. BRUSHIA: This is the definition as it  
14 stands now, but we're still taking comment on the  
15 definition because one of the things we want to do as we  
16 move forward is refine the definitions which are very  
17 clear to everyone involved what we're talking about.

18 MS. PORTER: Graffiti removal. Katherine  
19 Porter. So that would not be included then?

20 DR. BRUSHIA: No, because graffiti remover is  
21 covered under California Resources. Methylene chloride  
22 is actually restricted completely. It's used in a whole  
23 variety of surface cleaners products already under the  
24 Air Resources Board'S regulations and it's one of the  
25 ones included. So we would not be further -- it's

1 already restricted, so there is no sense of us including  
2 that.

3           Again, the hazard considerations, what  
4 prompted us to select methylene chloride? Well, it's  
5 highly volatile and acutely toxic. There have been a  
6 number of deaths attributed directly to the use of  
7 methylene chloride by both consumers and workers. It's  
8 a carcinogen. It's classified as either a known or a  
9 licensed carcinogen by a number of authoritative bodies.  
10 It's neurotoxicants. It can harm skin on contact. It  
11 can damage eyes and sensitive populations may include  
12 children. It may include people with respiratory or  
13 cardiovascular disease. So, these are the hazard  
14 considerations that we looked at in selecting methylene  
15 chloride.

16           Why paint and varnish strippers? We looked at  
17 various exposure considerations. Again, as I mentioned,  
18 they're actually have been deaths with these use of this  
19 material. It's widely available to consumers in  
20 California. We have some questions that we posed  
21 regarding the market for this material. We don't have  
22 really good quantitative data. Our own California  
23 Department of Public Health has done surveys in the past  
24 of home improvement stores, hardware stores and found  
25 generally widely accessible to consumers. Again, it's

1 highly volatile. For those who don't know what it  
2 means, it goes directly from liquid into a gaseous form  
3 very readily at room temperature. It becomes airborne,  
4 it presents a real inhalation risk and it has been  
5 documented -- Lawrence Berkeley National Laboratory has  
6 done some studies showing use in the homes can result in  
7 really high concentration methylene chloride in the air,  
8 and another consideration is that air purifying  
9 respirators and gloves that might be commonly used  
10 during home projects may not provide adequate  
11 protection, and there appear to be some alternatives  
12 with the use of methylene chloride, although, again, we  
13 have questions on what those are and how readily  
14 interchangeable they may be.

15 MS. GARDNER: My name is Janet Gardner. I'm  
16 with Amyris. And I have a question regarding the  
17 deaths, and I guess I would be a little surprised at the  
18 data being grandular. I guess I'm not questioning there  
19 may be deaths associated with the product category, but  
20 is the data grandular enough that to say because of  
21 methylene chloride? A lot of these products have low  
22 viscosity aspiration hazards, and that would be -- I'm  
23 raising the comment. I'm not sure...

24 DR. BRUSHIA: Several deaths, yes, it was  
25 related to the metabolism of methylene chloride, which

1 then resulted in the ultimate toxicity. So, yeah, I  
2 actually have coroner reports from that.

3 MS. GARDNER: Thank you.

4 DR. BRUSHIA: Okay. Okay. One of the big  
5 questions we're still asking is: Are there  
6 alternatives? What are they? And are there additional  
7 human health or environmental concerns related to the  
8 possible alternatives? The profile mentions some that  
9 are available and we don't know how widely in use they  
10 are, how ready they can be interchangeable with  
11 methylene chloride. We are trying to get some more  
12 information on that.

13 Market information. Again, as I mentioned, we  
14 know some things, but we don't know everything and we  
15 really would like to gather more information on how many  
16 businesses in California actually use paint strippers or  
17 varnish strippers of methylene chloride.

18 DTSC actually sponsored a study a few years  
19 that actually did have some information in it referring  
20 to a number of businesses. We don't have really good  
21 information that's up to date. We know that the air  
22 board does their consumer product surveys. The last one  
23 was done in 2006, and we know they're gearing up to do  
24 another one, but we don't know -- you know, that may not  
25 be done in time to use any information from it. So we

1 don't know what really up-to-date information is  
2 regarding how many businesses there are out there. We  
3 don't know really who all is manufacturing paint  
4 stripper with methylene chloride in California and  
5 nationally. We don't know how much of material is  
6 actually made or sold in California. We know that it's  
7 widely available. We don't know quantitatively how much  
8 we are talking about. We also don't know how many  
9 retailers that may be selling the stuff in California.

10 UNKNOWN SPEAKER: Is it on the Prop 65 list?

11 DR. BRUSHIA: Yes.

12 UNKNOWN SPEAKER: It seems that might be one  
13 mechanism technically close to labor.

14 DR. BRUSHIA: That's just a labeling. I mean,  
15 it's not essentially a... The airborne probably has the  
16 most comprehensive data because there have been consumer  
17 product surveys, but it's been a period of time. The  
18 last was done in 2006. There is some information there,  
19 but we don't know how accurate it may still be seeing  
20 how there was a huge recession that hit the country  
21 since that time. We don't know if the market suffered  
22 or if it recovered. We really don't know a lot about it  
23 so -- and that's really it. That's the summary that I'm  
24 going to present.

25 Hopefully, if you haven't already, you would

1 take a look at the profile that's posted on our Website.  
2 You can get a lot more information out of that.

3 We are going to open the discussion now, and  
4 we encourage written comments to be submitted to us  
5 also. There is this e-mail address you can submit your  
6 comments. We would like to receive them by June 30th.  
7 We are going to go ahead in the rule making and getting  
8 the comments by then will help us, although we accept  
9 them any time and we consider them.

10 MS. RUBIN: So the first discussion topic that  
11 we want to address is the description of the priority  
12 product, and, you know, like Dr. Brushia said, you know  
13 we got a lot of feedback already, and so that's how the  
14 definition has changed, and you know, we want to  
15 continue to seek input, and so that's really what this  
16 discussion topic is about, you know, for you to give us  
17 feedback for us to answer your questions.

18 We have our easel. We can put it up on the  
19 easel.

20 DR. BRUSHIA: Again, we're looking for any  
21 comments that would help us refine the product  
22 definitions. If you have any that would help us to  
23 clarify it, make it as clear as possible. We are  
24 interested in whether or not global product  
25 classification per codes would be useful to clarify the

1 products, or any other considerations we might, you  
2 know, think about in terms of how we classify the  
3 products.

4 MS. PORTER: Catherine Porter. Would it be  
5 too time consuming for someone to quickly read that?

6 MR. ALGAZI: I was going to propose that. I  
7 can read it, and then we can talk about it.

8 DR. BRUSHIA: Only the first paragraph is the  
9 proposed definition. Underneath is information on  
10 things we would exclude because we're already  
11 prohibited.

12 MR. ALGAZI: Should I go ahead and read?

13 DR. BRUSHIA: The first paragraph is really  
14 the only definition. The remaining part of it is  
15 related to things we would exclude.

16 MR. ALGAZI: So the current working version of  
17 the regulatory concept is this, paint stripper includes  
18 any product that contains methylene chloride and that  
19 may be marketed, sold or described as a paint or  
20 varnished stripper designed to break down paint or  
21 varnish to facilitate its removal from a surface.

22 So, such products may be designed for indoor  
23 or outdoor use and can be used to remove varnish or  
24 paint from any chosen surface, and the language comes  
25 from the GPC and we have taken things out.

1           Paint strippers and other products are  
2 included in Brick 10002501 of the GS1 global product  
3 classification system. Pointing to the GS-1 category or  
4 brick, but it doesn't include everything with that  
5 brick. This product category includes, but is not  
6 limited to any product which may be marketed, sold or  
7 described as paint or varnish removers, that the  
8 manufacturer has identified as being in Brick 10002501  
9 of the TS-1 classification system. However, products  
10 that may be marketed, sold or described as a paint -- as  
11 paint or varnish strippers are included in this  
12 definition, regardless of whether or not the  
13 manufacturer has identified them as being in Brick  
14 100002501.

15           So maybe one question would be given that this  
16 GS-1 category is broader than what we're trying to  
17 capture. Is it even helpful to reference it?

18           I think we got some feedback in the Sacramento  
19 workshop that it maybe it isn't, and we could sort of  
20 simplify the definition.

21           On the other hand, there may be some value. I  
22 don't know if anyone has an opinion on this.

23           DR. BRUSHIA: I should mention the Air Board  
24 has a definition in their regulation for paint stripper  
25 and the first sentences are taken directly from that.

1 MR. ALGAZI: We put together some language  
2 from the GS-1 global product classification system and  
3 from the Air Sources Board, consumer products  
4 regulations. Our goal is clarity, and lack of  
5 ambiguity. We want to know people who read this know  
6 what we are talking about.

7 If anyone has any feedback one way or another  
8 on this -- should I read the other similar products that  
9 are excluded? I think that's relevant, too.

10 DR. BRUSHIA: Sure.

11 MR. ALGAZI: This product category expressly  
12 excludes paints, special purpose paints which would be  
13 paints, paint additives/enhancers, paint thinners, sand  
14 paper and other abrasives and any cleaning products in  
15 which the use of methylene chloride is prohibited under  
16 the California Air Resources Boards regulation for  
17 reducing emissions from consumer products. While the  
18 priority product profile contained a reference to  
19 surface cleaners, DTSC is not including them in this  
20 draft regulatory concept in effort to provide clarity  
21 and to avoid overlap with existing regulations governing  
22 various cleaners, and surface cleaners.

23 And then it says below: Chemical of concern,  
24 methylene chloride. And it gives the chemical abstracts  
25 service registry number 75-09-2. That's what we're

1 looking at.

2 UNKNOWN SPEAKER: I have a comment -- more  
3 kind a nitpick in the first sentence, paint strippers  
4 include any products that contains methylene chloride in  
5 that may be -- it's a paint stripper, regardless of  
6 whether or not it contains methylene chloride, but it's  
7 more, I would think, more defined by the function, but  
8 that you're focusing on paint strippers that have  
9 methylene chloride.

10 MR. ALGAZI: Yeah. The way our -- that is a  
11 good comment. The way our framework regulations are  
12 constructed, the priority product has to contain the  
13 chemical of concern, so we could have a separate  
14 definition that doesn't make reference to the chemical  
15 and then I think it's hard to completely avoid  
16 referencing the chemical in the product definition.  
17 Sometimes if there might be methylene chloride that was  
18 maybe not intentionally added or contaminant or  
19 something, but we will definitely take that back and  
20 look at it.

21 UNKNOWN SPEAKER: So I'm -- I think it would  
22 be useful to reference a CARB regulations that prohibits  
23 because I would be interested, for instance, in checking  
24 that out, myself, to see what all is already prohibited  
25 by CARB, and not just have this, you know, reference to

1 that so I think that would be useful. And is this when  
2 we actually talk about what's included under paint  
3 stripper?

4 DR. BRUSHIA: Yeah.

5 MR. ALGAZI: Actually, right now, this topic  
6 is how we're describing the product or how should we  
7 describe the topic? So that everyone who reads it  
8 understands that we're talking about this can or bottle  
9 of something and not this one. So, that's the goal is  
10 to be clear about.

11 UNKNOWN SPEAKER: So a substantive comment on  
12 that? I had not only contain this can but this can.

13 MR. ALGAZI: How do we describe this can?

14 UNKNOWN SPEAKER: I guess my question is, I  
15 looked at the U.S. Department of Health and Human  
16 Services and the household product database and they  
17 have a whole list of products that have methylene  
18 chloride in them, and what I don't know is if all of  
19 these products except for paint strippers are prohibited  
20 under CARB and so, you know, we're being regulated a  
21 different way. So, for instance, you know, break  
22 cleaner, is that regulated by CARB?

23 DR. BRUSHIA: Actually, I believe it is.

24 UNKNOWN SPEAKER: I guess maybe going back and  
25 having a reference to the CARB regulations so that we

1 could do our own --

2 DR. BRUSHIA: You mean actually cite the  
3 statutory?

4 UNKNOWN SPEAKER: Yes.

5 MR. ALGAZI: Health and safety code or title  
6 whatever California Code.

7 UNKNOWN SPEAKER: We can confirm what all is  
8 listed, so when we get product lists, for instance,  
9 another thing that I read was that bathtub refinishers  
10 died in using methylene chloride.

11 MR. ALGAZI: We believe they were using paint  
12 stripper.

13 Is that right, Rob?

14 DR. BRUSHIA: Yes, paint stripper.

15 MR. ALGAZI: A product that we would capture.  
16 That's our understanding.

17 DR. BRUSHIA: It's very commonly used in home  
18 remodel for cabinets, dripping cabinets, and desks and  
19 things like that.

20 UNKNOWN SPEAKER: So the can would  
21 characterize it as a paint stripper, but they would use  
22 it as lacquer or whatever?

23 MR. ALGAZI: Lacquer.

24 DR. BRUSHIA: If you go to the -- if you just  
25 type in the CARB consumer product regulations, it will

1 take you to the Website. We would in actual regulatory  
2 language, we would specify specifically what sections of  
3 CARB that we were referring to. We put it on to keep it  
4 brief and not some complicated with legal jargon, but  
5 there is reference to profile at least to regulations.  
6 So, you can take a look at it, and also, California  
7 Department of Public Health, like I said, they have done  
8 extensive product surveys. They actually have a lot of  
9 documents on their Website, including one identifies  
10 specific brand names and how the products is labeled on  
11 the can. So you can get an idea of what kinds product  
12 labels we're talking about.

13 MR. ALGAZI: Sold or marketed comes in to  
14 play? If it's labeled and sold as paint stripper, and  
15 somebody uses it for some other purpose, we are still  
16 capturing it and we're trying to or attempting to  
17 capture it. But if it's some other product that may be  
18 formulated similarly, but not marketed or sold as paint  
19 stripper, we wouldn't; is that correct? Is that an  
20 accurate way of saying it, Rob?

21 DR. BRUSHIA: Yeah, it has to do with CARB  
22 regulations have a lot of good information in them. It  
23 has to do -- it's defined in their regulation and we  
24 would -- so, there is, broken out into -- I mean, they  
25 have general surface cleaners. There is a whole slough

1 of different privacy cleaners. It's restricted and  
2 their definitions are really good. We would refer  
3 directly to that in terms of what is included in our  
4 regulation and what is not, and we would have it  
5 marketed or sold as those items.

6 Now, if someone bought it and used for an  
7 intended purpose, like they bought paint cleaner and  
8 used paint stripper, we wouldn't necessarily cover that  
9 application. We would be looking at the specific  
10 product, how it's marketed or sold.

11 MS. POWER: I have a basic process. Kristin  
12 Power with Consumer Produce Specialty Association. You  
13 have referenced the CARB consumer products regulation  
14 numerous times, and so from a process perspective, I  
15 don't really understand how surface cleaners got into  
16 the original profile. When you have looked at the  
17 consumer products regulation and understanding what is  
18 included in it and as a sister agency hopefully had  
19 conversations with the CARB staff.

20 So my process question is: How did that  
21 happen? And how do you prevent from that happening  
22 again when part of your regulatory review is duplication  
23 of regulatory oversight?

24 DR. BRUSHIA: Well, we were aware of it. We  
25 were in talks with CARB and CARB actually recommended

1 that we keep the language as is because if it's read how  
2 it's written in the original profile, it was talking  
3 about things being sold and marketed as paint strippers,  
4 including those items.

5 So, in other words, if something was a surface  
6 cleaner or what have you, if it were sold or marked as a  
7 paint stripper, then it would have -- there is some what  
8 of a gray area there in terms of how that -- how that  
9 could happen, and so what we're trying to do initially  
10 was cover all the basis in terms of how is it marketed  
11 or sold as a paint strippers? Since that time, we have  
12 just had a lot of comments, including the environmental  
13 panel, that they believe are adequate to cover that and  
14 that it creates a very complex situation for us, and so  
15 that we should focus our efforts more specifically on  
16 the paint strippers.

17 MS. POWER: I need a definition of complex  
18 situation for you.

19 DR. BRUSHIA: Well, it expands the number of  
20 products we have to deal with initially and since this  
21 is new program, we're trying to get going now in terms  
22 of how to implement it. They were suggesting that we  
23 narrow our field and focus as much as possible.

24 UNKNOWN SPEAKER: Okay.

25 DR. BRUSHIA: So the more products we brought

1 in, the more complex it would be in terms of  
2 stakeholders to interact with the number of potential  
3 alternative assessments that would have to be done, so  
4 on, so forth, and the varying -- the variance between  
5 them because if the products really are intended for  
6 different purposes, we would have to look at a much  
7 bigger universe space.

8 MR. ALGAZI: I think we're in the profile. We  
9 are -- we do make statements that we don't want to  
10 capture things that are already regulated; is that  
11 correct?

12 DR. BRUSHIA: Yes.

13 MR. ALGAZI: So our intention in sort of  
14 putting out some -- the profile is this, it's sort of an  
15 a strong concept for this conversation. We have already  
16 received input and since the profile was released,  
17 refined our thinking, and so I think rather than strive  
18 for perfection out of the gate, we want to be clear and  
19 communicate when we release the profile. That is what  
20 we are doing a bit after the fact this is not  
21 regulatory.

22 This is, you know, a snapshot of our  
23 understanding as of the date and we're soliciting  
24 comment and clarification. We want to refine what we  
25 have written here to be more precise, more accurate, to

1 capture what we want to and not what we don't want to.  
2 So, from that perspective, the potentially confusing way  
3 in which we initially defined the product, you know,  
4 it's a learning experience and rather than -- I think  
5 it's not necessarily a bad thing that we receive comment  
6 based on our maybe not exactly finalized thinking.

7 DR. BRUSHIA: Right. There is one other thing  
8 to point out is that CARB'S regulations restrict the use  
9 of methylene chloride in those things and in the various  
10 cleaners they have listed. It's prohibited from use of  
11 them, and our product is defined only as Andre was  
12 saying. Our product is not independent of the chemical.  
13 It's the chemical of concern in the product is part of  
14 the priority product. A priority product is a product  
15 containing a chemical of concern. That's what it is.

16 So, if we listed surface cleaners, for  
17 example, only those that have methylene chloride in them  
18 as the active ingredient would be captured. Those would  
19 be surface cleaners that didn't fall within CARB's  
20 regulations for a variety reasons.

21 Since then we have been interacting with CARB  
22 and we have -- we think that that, market that there is  
23 not a market there. In other words, we think that there  
24 is not a market where there are surface cleaners being  
25 sold with methylene chloride in them, and in other

1 words, trying to circumvent the regulations, so to  
2 speak. We think it's very clear what those things are  
3 that are being sold that fall under CARB regulations.  
4 We don't think there is a need to capture those products  
5 that might not fall within CARB's regulations. We don't  
6 think they're there.

7 MS. RUBIN: Were there any other questions or  
8 comments about the product description?

9 Okay. So, the second topic that we want to  
10 address with you is the chemical of concern alternatives  
11 and, you know, they kind of talked about that in the  
12 larger session. You know, is it even necessary? Are  
13 there other chemicals that would do the same job  
14 without, you know, having the same negative affects?  
15 You know, what are the known hazards? And things like  
16 this.

17 So, you know, do you have -- do you all have  
18 any questions about that -- I mean, research?

19 MS. POWER: I would be happy to start.  
20 Kristin Power from Consumer Special Products  
21 Association. I have not read the revised profile that I  
22 believe you released this morning, but we have concerns  
23 about the Department of Toxic Substance Control putting  
24 any information in the priority product profile, but  
25 what they deem a safer alternative. We think that

1 presupposes an outcome and could create concerns within  
2 the marketplace. We think that it is entirely  
3 inappropriate to predetermine that outcome prior to the  
4 alternatives analysis and would request that any  
5 alternative that DTSC deemed might be safer and removed  
6 from the priority product profile not be included in  
7 future priority profiles.

8 MR. ALGAZI: Acknowledge the comment and we  
9 did have -- I guess it probably wasn't adequate from  
10 your perspective. We do have a footnote in there in the  
11 originally release profile stating that we're not  
12 asserting that any potential alternatives are  
13 necessarily safer, functionally acceptable, feasible or  
14 economically feasible. And then we have since added a  
15 new front page to it as well to that affect.

16 So, I take your point. Our purpose in naming  
17 alternatives was not to endorse them, and perhaps we  
18 weren't clear enough about that by way of example.

19 MS. POWER: Thank you.

20 MR. ALGAZI: This is by way of example.

21 UNKNOWN SPEAKER: So I know that California  
22 Department Occupational Health Branch does suggest some  
23 safer less toxic choices, including benzel alcohol, soy  
24 based substances dybastic esters, and then they have a  
25 list that the chemicals get progressively more

1 problematic.

2           Some chemicals that we would hope are not used  
3 to replace methylene chloride include methyl chloride,  
4 poly and methanol, which are hazardous chemicals. And  
5 then there are three chemicals mentioned where they  
6 advise use with caution sodium hydroxide and magnesium  
7 hydroxide? So, we're very -- we're very concerned that  
8 in not be endorsed as a replacement.

9           MR. ALGAZI: So the framework is if we -- the  
10 regulation is finalized for this product chemical  
11 combination then manufacturer or other responsibility  
12 will identify functional requirements, identify relevant  
13 factors and alternatives be considered and then so we  
14 are aware of the Website you are pointing to. I think  
15 their focus is on specifically exposure during use,  
16 which is what lead us to consider the product, but the  
17 alternatives analysis looks broader at health and  
18 environmental impact, as well as the chemical of concern  
19 and alternatives. So, some of those may come out better  
20 or worse to Miss Powers' point. I mean, that's when we  
21 get to that process, it will be more of a life cycle  
22 look at the impacts of the methylene chloride, and the  
23 alternatives to methylene chloride, than probably health  
24 may have done. More focused on work or user exposure  
25 during the use phase of it, which is relevant. My point

1 is there may be trade offs. We haven't done the life  
2 cycle test, the alternate decision.

3 MS. RUBIN: Does that answer your question?

4 UNKNOWN SPEAKER: I don't know that I was  
5 asking a question. It was a comment and I'm not sure I  
6 am completely satisfied with the response -- the comment  
7 that the response because to us replacing one hazardous  
8 chemical with another, it's just hard to imagine that  
9 there would be a scenario wherein MMP would be...

10 MR. ALGAZI: We're very aware of MMP hazards  
11 and MMP doesn't meet in the initial products. So, but  
12 we are aware of it and so, yeah.

13 UNKNOWN SPEAKER: Okay. Great. Thanks.

14 MS. RUBIN: Anyone else on this topic?

15 I mean, if you think of something once we get  
16 through the discussion topics, we can come back to it.  
17 It looks like we're moving pretty quickly. There will  
18 be time at the end to address any other concerns, answer  
19 any questions, and if you thought of something or, you  
20 know.

21 DR. BRUSHIA: One last word on alternatives,  
22 too. The regulation requires that we take a look at  
23 whether alternatives exist, and in our profile we tried  
24 to show what information is out there, but we're not  
25 endorsing or not endorsing anything.

1           We're just putting out the information we had  
2 related to that factor in that said we shall consider.

3           We don't have a lot of information related to  
4 alternatives, especially potential hazard information,  
5 or how suitable they are. We just put what was out  
6 there, and that's why we are asking more questions about  
7 it. We're trying to develop a broader base of knowledge  
8 about that.

9           Go on to Topic 3.

10           MS. RUBIN: So the third topic concerning the  
11 workshop today is the market information. So,  
12 Dr. Brushia was saying, you know, there is limited  
13 amount of information that we have on the market, and  
14 what we do have is from 2006. So, you know, we're  
15 looking for development. We're looking for input. Like  
16 you mentioned, people using a paint stripper to remove  
17 the varnish on a bathtub, that's something, you know,  
18 that we're interested in. So, you know, different  
19 whatever feedback we can get on the market wherever we  
20 can look to, you know, find out more, we would  
21 definitely like to have input to consider.

22           DR. BRUSHIA: We have general qualitative  
23 information, but we don't have quantitative information.  
24 We don't know the market is in this California. We  
25 don't know how much is sold in California. There is

1 consumer applications, but as far as quantitatively  
2 speaking, we are trying to get more information related  
3 to that, because there is just not that much publicly  
4 available. So.

5 UNKNOWN SPEAKER: Question: So, do the  
6 regulations or the statute provide any mechanism or  
7 authority to survey and require feedback?

8 DR. BRUSHIA: There is a provision in there  
9 for data call in, but as I recall, I'm not -- are you  
10 familiar with all the specific requirements and the  
11 time?

12 MR. ALGAZI: There is a voluntary data call in  
13 provision that's part of this regulation.

14 UNKNOWN SPEAKER: It's voluntary on the part  
15 of manufacturers or industry?

16 MR. ALGAZI: So that might be useful. And  
17 while we continue talking, I'll find it.

18 DR. BRUSHIA: Any other comments in the  
19 meantime?

20 UNKNOWN SPEAKER: Can I pursue this a little  
21 further? I wonder, has there been any conversation in  
22 DTSC about maybe leading to topic of legislature giving  
23 more authority for more mandatory approach for calling  
24 in information?

25 MR. ALGAZI: We do have a data call in some

1 statutory authority to call in data on chemicals and in  
2 regulations, we obviously we can't impose that  
3 requirement that we haven't been given authority by the  
4 legislature to impose. That's why I believe there is  
5 voluntary data call in provision in these regulations,  
6 and I just need a moment.

7 UNKNOWN SPEAKER: I believe I was -- my  
8 recollection from the card process was before doing some  
9 surveys, they did some their own market surveys before  
10 doing industry and that was kind of the gist behind my  
11 comment about the Prop 65. I think we do have a  
12 mechanism where if these products methylene chloride,  
13 they should be labeled as such. So I would think some  
14 sort of a store survey at Lowe's, Home Depot and get you  
15 started.

16 DR. BRUSHIA: There have been surveys.  
17 California Department of Public just had one a few years  
18 ago -- I can't remember if it's referenced in our  
19 profile, but the survey region was limited. It's  
20 limited to the Bay Area, a couple of counties in the Bay  
21 Area. We don't know -- and again, we don't know how  
22 widely applicable that is statewide. The other thing is  
23 we don't -- that doesn't tell us anything about the  
24 distribution between industry, and the home consumer  
25 use.

1                   What else was I going to say?

2                   UNKNOWN SPEAKER: It's not everything you want  
3 to know, but it's a suggestion.

4                   DR. BRUSHIA: The other thing is the surveys,  
5 as I mentioned, a survey was done in 2006, and it does  
6 have information in it. But, we're unsure and if we  
7 have to rely on that as the most updated information we  
8 have, then we may. We're trying to -- what we're trying  
9 to do is trying to get a better picture of the market as  
10 it stands today. 2006 was eight years ago, and we don't  
11 know in when that time frame if anything has been done  
12 to -- in terms of the market for this particular  
13 material.

14                   We know that there have been substitutes or  
15 alternatives, for example. They are being manufactured  
16 by some manufacturers. We don't know if that market has  
17 increased. We don't know. That's where we're trying to  
18 get information on.

19                   UNKNOWN SPEAKER: As a hypothetical if you  
20 went out there and you got this information, and said,  
21 well, no one is really using this anymore. Would you  
22 change your selection of...

23                   MR. ALGAZI: Well, we do believe  
24 notwithstanding that we don't have up to date  
25 quantitative information, we do have surveyed retail

1 establishments, itself, paint strippers and there is a  
2 lot of methylene chloride based paint strippers on the  
3 shelves. We don't believe it's not used anymore. So  
4 that's a hypothetical question. I don't think we would  
5 find information indicating it's not used.

6 I just found the section if anybody is  
7 interested. It's in our framework regulations in  
8 California Code of Regulations, Title 22, section number  
9 is 69501.4, subsection B, and it's voluntary --  
10 essentially voluntary information request, which we can  
11 do either with a letter to the manufacturer or a posting  
12 on our Website and as well, there is provision for us to  
13 post a response status list. So that's the sort of  
14 ones -- I don't know -- ramification of responding or  
15 not responding is that information will be posted on our  
16 Website.

17 So, the types of information we would request  
18 are specifically, you know, it just says information  
19 need to implement the regulations. So that would  
20 potentially include some information we are talking  
21 about in a less formal way, you know, we're asking  
22 people if they have information they would like to share  
23 with us.

24 UNKNOWN SPEAKER: So you are saying that  
25 concludes if you were to send a letter to one of the big

1 box stores and you didn't get a response, then what  
2 might appear on the Website is...

3 MR. ALGAZI: We didn't get a response.

4 UNKNOWN SPEAKER: And that would appear  
5 information available to the public.

6 MR. ALGAZI: The way it's worded is we can  
7 make a request to -- I'm not sure it's limited to a  
8 responsible entity like a manufacturer. It says request  
9 one or more product chemical manufacturers or retailers.  
10 There would be constraints on whom we would be asking  
11 for this.

12 MR. BELCHER: Rick Belcher. A quick question.  
13 It's probably a dumb question. But, does regulation  
14 really address what product is sold or product that's  
15 used?

16 DR. BRUSHIA: Regulation refers to a statute  
17 that was accompanying -- it was a Senate Bill 509, I  
18 believe, in 2008. This was accompanying the bill that  
19 authorized these regulations, and it's a bill that  
20 required OEHA toxic information clearinghouse on a bunch  
21 hazardous information. In there is where the definition  
22 of consumer product is given, and basically, it's any  
23 product put into the stream commerce in California. It  
24 can be anything that's put into commerce.

25 MR. ALGAZI: That is an important phrase

1 placed into the "stream of commerce in California."  
2 That's defined in the framework as -- being placed in  
3 stream of commerce means consumer product have been  
4 sold, offered for sale, distributed, supplied or  
5 manufactured for use in California as a finished  
6 product, or as a component of assembled product.

7 So, if the product is being used, but it was  
8 not put in place into the stream of commerce, then  
9 the -- then it wouldn't be -- I think this is built on  
10 the definition of consumer product.

11 UNKNOWN SPEAKER: Just curious.

12 UNKNOWN SPEAKER: It's Interstate Commerce Act  
13 provisions that affect that. So, California agency  
14 wouldn't have jurisdiction over something that was not  
15 sold here.

16 MR. ALGAZI: I think that's why it's worded  
17 the way it is.

18 UNKNOWN SPEAKER: I was thinking of  
19 consequences for something like this.

20 MR. ALGAZI: Right. So it's something that  
21 was purchased, distributed outside California would not  
22 be covered under the frameworks regulations if someone  
23 used it in California.

24 UNKNOWN SPEAKER: Right.

25 MR. ALGAZI: That's not the authority we have.

1 DR. BRUSHIA: Likewise, I believe there is a  
2 provision there transported through California.

3 MR. ALGAZI: The applicability, specifically  
4 this chapter, refers to consumer products put in the  
5 stream of commerce through California.

6 If we don't have anything else on the three  
7 topics, does anybody have any general?

8 UNKNOWN SPEAKER: I have one question about  
9 the timing. You know, so, as I understand it, between  
10 now and the end of the year, it's the public discussion  
11 and workshop.

12 DR. BRUSHIA: Well, we have one more public  
13 workshop next week in Los Angeles, and we're accepting  
14 public comment on that. We would like to get them by  
15 June 30th, if possible. But, no, it's not -- what  
16 happens next is we initiate the rule making process.  
17 Then there would be an official public comment period  
18 associated with that once we started.

19 MR. ALGAZI: Rule making process, it was like  
20 a year, year and a half. It's a year from public notice  
21 date that we have to finalize the regulations. So our  
22 intention -- so after the third final workshop, we're  
23 going to continue soliciting and encouraging comments  
24 until the end of June. We will certainly consider  
25 comments that came in after that. During that period of

1 time during the summer we're going to be reviewing the  
2 comments, evaluating whether we see any other additional  
3 changes we would like to make to either the definitions  
4 or the language, the scope, things like that based on  
5 information we received that we found on our own or  
6 provided by some of you, all or other interested  
7 parties, and then we have to develop a number of  
8 documents that go along with the regulatory text in  
9 which is not insignificant amount of work and  
10 coordinations.

11 So it will take us a period of time to pull  
12 all those documents when they need to be sort of  
13 complete, and ready for the public notice.

14 So, our best estimate as of -- as of now would  
15 be some time in the fall or we would have everything  
16 together, and we would be ready to public notice at that  
17 time.

18 DR. BRUSHIA: Once we launch that, it will  
19 give us 45 days.

20 MR. ALGAZI: So from 45 days from the public  
21 notice date, we would during that period of time there  
22 is a formal comment period on the proposed regulatory  
23 language. We would have a public hearing on or around  
24 the end of the 45th day. It might be depending on  
25 weekends, a little after and the public hearing would a

1 more formal sort of setup than this and we would invite  
2 people to testify. There will be a court reporter.  
3 There won't be any give and take or on the fly responses  
4 from the DTSC. We would note everyone's comments and  
5 then close the hearing and decide whether we're ready to  
6 finalize the package or whether we need to make further  
7 changes, and if we decided that based on public comment,  
8 we need to make further comment, those changes would be  
9 subject to another public comment.

10 So that's the general framework. We're hoping  
11 to get it right by having conversations informally prior  
12 to the formal public notice and comment period of the  
13 administrative procedure act, so we can expedite  
14 finalizing the regulations.

15 UNKNOWN SPEAKER: It's not that clear, but  
16 there are a lot of steps.

17 MR. ALGAZI: It's a very formal process. In  
18 general adopting administrative regulations, there is a  
19 formal process and there are lots of requirements.  
20 Every comment is considered and responded to.

21 During this kind of a dialog, we're not  
22 obligated to write a formal response to each and every  
23 comment that's provided, for example. There are a lot  
24 of -- at the end of a regulatory -- at the regulatory  
25 process, we have administrative lots that have the

1 course of lots. So there is where now we're put as a  
2 concept, and so, we don't have to -- if we have got  
3 something not quite right, we can receive that feedback  
4 and fix it without going through the whole formal  
5 process. So.

6 MS. WALTERS: Holly Walters. The deadline for  
7 that is October 1st?

8 MR. ALGAZI: Well, it's to be determined  
9 because there is some unknowns still. We are still  
10 receiving information from stakeholders, manufacturers,  
11 different people, who are interested in the products or  
12 the process, and so until we really kind of know what  
13 feedback we have, it's a little bit premature to give a  
14 precise date on which we will have everything compiled  
15 and ready for public notice. So sometime in the fall I  
16 would expect we will be ready. It might be after  
17 October 1st. I wouldn't expect it to be prior to.  
18 That's not a bad guess. But, I don't want to be...

19 DR. BRUSHIA: There is no statutory mandated  
20 date. At this point it's when we're ready to move  
21 forward with it.

22 MS. RUBIN: All right. Does anyone have any  
23 further comments on the chemical, the process, or any  
24 feedback, any comments?

25 UNKNOWN SPEAKER: I'm on the Website and can't

1 find the definition of that so -- and I have the  
2 printout, the last printout of the profile. It's March.

3 MR. ALGAZI: It's on regulatory concept for  
4 the workshop.

5 We didn't revise. We added a disclaimer page  
6 so, we maybe we should...

7 UNKNOWN SPEAKER: You might think about it.

8 UNKNOWN SPEAKER: Are you saying does this  
9 definition appear online somewhere?

10 DR. BRUSHIA: So.

11 MR. ALGAZI: So it's in the regulatory  
12 concepts. So the way -- the quickest way to find it is  
13 Google DTSC safer workshops and on the workshop page.

14 UNKNOWN SPEAKER: It's not on the product  
15 page. It's the...

16 UNKNOWN SPEAKER: I think it should be in the  
17 product profile. We're not sure that we're going to  
18 change that, but I do agree, it should be in the future  
19 on the actual comment page Website.

20 MR. ALGAZI: This is Meredith Williams. She  
21 is our deputy director for the safer products and  
22 workplaces, which is the program that Rob and I work  
23 for, by the way, and Patrice Bowen who is the head of  
24 our participation group.

25 DR. BRUSHIA: No one has any comments or

1 questions.

2 Thank you.

3 (Whereupon, proceedings concluded

4 at 11:50 p.m.)

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CERTIFICATE OF  
CERTIFIED SHORTHAND REPORTER

\* \* \* \*

The undersigned Certified Shorthand Reporter  
of the State of California does hereby certify:

That the foregoing Proceeding was taken before  
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That the testimony and all objections made at  
the time of the Proceeding were recorded  
stenographically by me and were thereafter transcribed,  
said transcript being a true and correct copy of the  
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In witness whereof, I have subscribed my name,  
This date: June 23, 2014.

*Debra Acevedo-Ramirez*

DEBRA ACEVEDO-RAMIREZ, CSR No. 7692

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