



February 19, 2021

To: The Honorable Pam Marsh, Chair
Members, Oregon House Committee on Energy and Environment

From: Tim Shestek
Senior Director, State Affairs

Re: **HB 2495 – OPPOSE**

The American Chemistry Council (ACC) appreciates the opportunity to comment on HB 2495, legislation that would, among other things, grant new authority to the Oregon Health Authority (OHA) to include “a class of chemicals” on the state’s list of high priority chemicals of concern. Chemical and product safety is a top priority for ACC members and we believe consumers deserve to have confidence that the products they buy are safe for their intended use. Our members invest significant resources in product and environmental stewardship and share a common commitment to advancing the safe and secure management of the products we produce.

As you may recall, the Toxic Free Kids Act (TFKA) was passed by the Legislature in 2015. Since that time, OHA has been working to develop the implementing regulations in three phases. ACC and other stakeholders have been active participants in OHA’s rule making process but it is important to note that the rulemaking process has not yet been completed. OHA has completed Phase 1 and 2 of the rulemaking process and is currently in the process of completing Phase 3, arguably the most complicated for the regulated community to comply with and for OHA to implement.

Phase 3 establishes the process for manufacturers to submit hazard assessments to OHA explaining how the children’s product, and any substitute chemical that may be used is inherently less hazardous before any chemical substitution has been made. OHA must then approve or disapprove these hazard assessments. ACC believes it is premature to amend the underlying statute before OHA has completed the rulemaking process and before there is any opportunity to assess the effectiveness of the entire regulation.

ACC also has concerns with the general concept of regulating chemicals based on a “class approach.” Regulations should take into account the significant differences among the many compounds that are part of a chemical family. The current high priority chemicals of concern list consists of 68 chemicals. The addition of “chemical classes” could result in product manufacturers reporting on hundreds, if not thousands of substances simply because a chemical has similar sounding name or structure. The bill is silent on whether OHA can assess individual chemicals within a class for possible inclusion on the list, nor provides any scientific criteria to guide any OHA evaluation.

Amending the list of high priority chemicals should only be done after a fact based evaluation about the nature of these substances, how they differ from each other and what risk, if any these substances may present to human health or the environment. Though the names of chemicals may be similar, the differences in their use, structure, health and environmental profiles make them unique. While ACC acknowledges that screening chemicals could be done via a “category” or “sub-category” approach can be useful to prioritize research or further assessing individual chemicals within a category, it is not appropriate for regulatory purposes.



Finally, HB 2495 will likely result in increased budget pressures on OHA. It is our understanding that the original fiscal impact only assessed potential state costs through 2017.¹ Given this legislation could increase OHA's workload, coupled with the fact that OHA has not yet finished Phase 3 rulemaking an updated fiscal analysis should be undertaken before any changes to the existing program are made.

For the above listed reasons, ACC urges you to oppose HB 2495. Should you have any questions, please do not hesitate to contact me at 916-448-2581 or tim_shestek@americanchemistry.com. You may also direct questions to Matt Markee at 503-510-3377 or matt@markee.org. Thank you in advance for considering our comments.

¹ <https://olis.leg.state.or.us/liz/2015R1/Downloads/MeasureAnalysisDocument/32271>