

# ACSH Consults Consumer Product Safety Commission On DINP Plasticizer

*By ACSH Staff — March 18, 2015*

The American Council on Science and Health consulted the U.S. Consumer Product Safety Commission (CPSC) on the plasticizer chemical known as diisononylphthalate (DINP) regarding its Chronic Hazard Advisory Panel (CHAP) report and the resulting proposed "Prohibition of Children's Toys and Child Care Articles Containing Specified Phthalates," published in the Federal Register on December 30, 2014.

The full letter after the decision is included below:

March 8th, 2015

Elliot F. Kaye, Chairman

U.S. Consumer Product Safety Commission

4330 East West Highway

Bethesda, MD 20814

Dear Chairman Kaye:

The American Council on Science and Health (ACSH) wishes to express our deep disappointment in the conclusions of the U.S. Consumer Product Safety Commission (CPSC) regarding the plasticizer chemical, diisononylphthalate (DINP).

ACSH and our Scientific Advisory Panel, numbering 360+ experts and academicians, are concerned about the validity of the data used to develop the Chronic Hazard Advisory Panel (CHAP) report and the resulting proposed "Prohibition of Children's Toys and Child Care Articles Containing Specified Phthalates," published in the Federal Register on December 30, 2014. We are troubled by the lack of transparency of the methods used to assess risk, and we believe that the egregious avoidance of including the latest published data on DINP exposure-outcome-risk while including irrelevant data has fatally flawed the discussion in its entirety, making the decision one that is not in the interests of America's public health, nor certainly in the interests of businesses associated with DINP commerce.

ACSH feels strongly that such flouting of the traditional, evidence-based standards for risk assessment based on the peer-reviewed literature all of it, not cherry-picked aimed at justifying a foregone conclusion is not only irresponsible and scientifically unsound regarding the current case, DINP but perhaps worse, will set a precedent that is being established for future chemical safety assessments and related rulemakings.

CPSC has not conducted a transparent public process. CPSC used the CHAP report as the basis for the proposed rule on phthalates, despite the fact that the CHAP report was not subject to an open, public comment period in accordance with long-accepted guidelines, and was only subject to a closed peer review. The failure to adhere to OMB guidelines for the peer review of a highly influential scientific assessment, such as the CHAP report, sets an extremely concerning precedent for federal chemical assessment, especially one that will have federal interagency impact. Absent a reliable, reproducible process that ensures objective and transparent science-based regulatory decisions, neither the public, public health advocates, nor the scientific community can have confidence in the CPSC's rulemaking process. And what is likely to happen if such a key public-health agency loses the trust of those over whom it has rulemaking authority?

In its reliance on the flawed CHAP report, the CPSC is adhering to a unique, unrecognized and unproven approach. CPSC's rulemaking marks the first time that a federal agency has made a regulatory decision to ban a chemical used in consumer products on the basis of a cumulative risk assessment - a regulatory tool that is novel and unproven. CPSC requirements for chemical safety determinations require an assessment of both the potential of a hazard **and** exposure to that hazard. It is long-established that **risk is best determined by considering both hazard and exposure**. Instead of following these requirements, CPSC adopted the CHAP'S recommendations to ban a chemical that could contribute in any "degree" toward the likelihood of a cumulative risk. This is in essence adopting the Precautionary Principle a day we here at ACSH hopes never arrives.

Even more disturbingly, the Commission relied on questionable and outdated data. CPSC issued its proposed phthalate rulemaking in accordance with the Consumer Product Safety Improvement Act of 2008 (CPSIA), to ban one of the most widely-used phthalate plasticizers, DINP, in certain products. However, this was done **despite** the fact that DINP has been reviewed by multiple scientific and regulatory bodies around the world, all of which found no evidence that the very low levels to which people are typically exposed cause health effects.

In addition, CPSC's evaluation and proposed regulation is based on exposure data that is outdated and appears to be selectively chosen, which produces an inaccurate picture of people's current exposure to phthalates. The NHANES data used by the CHAP was from 2005-2006, prior to the enactment of CPSIA. Three additional NHANES data sets produced since that time show a marked decrease in overall phthalate exposure, compared to the outdated data used by the CHAP to develop the proposed rule. CPSC has agreed to review the latest exposure datasets to determine if it warrants a ban on certain phthalates, but CPSC must also publish their analysis of the new data in the docket for public review and comment.

ACSH vigorously supports rules and regulations to protect human health and the environment when they are developed through open and transparent processes using the best-available science. Although this initial decision is disappointing, it is not too late: the final rule can still be developed in a way that enhances the credibility and quality of government science. At the very least, we urge and request that CPSC extend the comment period to allow adequate time for CPSC to consider all these concerns, as well as time for CPSC to publish its analysis with the most-recently available data and hold a public review and comment period on that analysis.

cc: Docket No. CPSC-2014-0033 (via [www.regulations.gov](http://www.regulations.gov) <sup>[1]</sup>)

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Medical and Executive Director

The American Council on Science and Health

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[1] <http://www.regulations.gov/>