



California's Safer Consumer Product Regs:

Identifying safer alternatives,
avoiding regrettable substitutes

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Department of
Toxic Substances
Control



California
Environmental
Protection Agency



**AB 1879 –
Safer Consumer Products
Regulations will require
product manufacturers to ask:**

Is It Necessary?



**AB 1879:
Mandates the question,
does not dictate the answer.**



Informal Draft Regulation

www.DTSC.CA.GOV/SCPRegulations.cfm

- 68 page full draft regulation
- 16-page summary w/ highlights
- “Then and Now” summary
- Visual: flowcharts and video

Overview: The Safer Consumer Products Regulations

All Chemicals
(100,000+)

Chemicals
of
Concern
(COCs)
(3000+)

Products
with
COCs

Priority Products Requiring:

- Alternatives Assessments
- Regulatory Response(s) for selected Alternative and/or Priority Product

Department of Toxic Substances Control

November 2011



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How It Works: The Safer Consumer Products Regulations

Chemicals

- OEHHA hazard traits
- Initial list – existing authoritative lists
- Additions to the list –
 - Adverse public health & environmental impacts
 - Sensitive subpopulations & environmental receptors
 - Exposures – biological/environmental monitoring
 - Reliable information

Chemicals of Concern List

Products

(Product/COCs Combinations)

- COCs' adverse impacts (see above)
- Potential exposures to COCs in product
- Market and household presence
- Users, uses, and applications of product
- End-of-life management
- Reliable information

Priority Products List

Alternatives Assessment

- Technical guidance
- Exemptions
- Alternatives assessment process & timeframes
- Alternatives assessment reports

Alternative Selection

Regulatory Responses



Chemicals of Concern

- Regulations immediately establish a large COC list (~3000)
- From a list of source lists --- authoritative organizations or reliable information
- Source lists used to initiate protective actions



Chemicals of Concern

Large List of Lists --- WHY

- Sends immediate signals to the marketplace
- Accelerates implementation
- Deters regrettable substitutions
- Flexible palette for future action



Chemicals of Concern

Large List of Lists --- WHY

- Consistent with AB 1879 direction
- Focuses DTSC resources on product prioritization & AAs
- Similar in size to chemicals “of concern” lists used by some retailers & industry associations



Chemicals of Concern Additions to COC List

- **Public comment process**
- **Narrative standard ---**
 - **Chemical adverse impacts (focus on sensitive subpopulations & receptors)**
 - **Exposures (potential & documented)**
 - **Substantiating reliable info**
 - **Availability of alternatives**



Priority Products List

(product-chemical combinations)

- **Public comment process**
- **Handful of product/chemical combos**
- **First proposed list --- 6 months**
- **Narrative standard**



Priority Products Narrative Standard

- **Adverse impacts of COCs in the product**
- **Potential exposures**
- **Market & household presence**
- **Users, uses, and applications
(e.g, sensitive populations & receptors)**



Priority Products Narrative Standard

- **End-of-life exposures**
- **Substantiating reliable information & monitoring**
- **Other regulatory programs**
- **Availability of alternatives**



Priority Products Key Factors

- **Significant potential COC adverse impacts**
- **Product widely distributed & used**
- **Significant potential for exposures**



Priority Products Key Factors

- **Assembled products --- inhalation or dermal contact exposures**
- **Formulated products ---**
 - **Applied to the body**
 - **Dispersed as aerosol or vapor**
 - **Hard surface application (runoff or volatilization likelihood)**



Priority Products Narrative Standard --- WHY

- **Forward looking regulation**
- **Can be applied to broad range of products**
- **Accommodates scientific advances**
- **Scientifically meaningful & practical**



Chemicals and Products Petition Process

- **Anyone may petition DTSC to consider a chemical or product using the COC and product prioritization process**
- **High priority for petitions by federal & California regulatory programs**

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Alternatives Assessments

- **Phased – notification, preliminary report, final report**
- **Flexibility – format & timing**
- **Regulations sets the standards, Guidance will offer details**

First Stage of Alternatives Assessments

Step 1 – ID of Product Requirements

- Function, performance, feasibility, legal
- Function of COC
- Is COC necessary ?
- Is substitute chemical necessary?

Step 2 – ID of Alternatives

- Meet product requirements
- Reduce / eliminate COC
- Reduce / eliminate exposure
- Look at existing alternatives

Step 3 – Initial Screening of Alternative Chemicals

- Info on adverse impacts
- Compare alternatives
- Eliminate COCs with greater adverse impacts

Step 4 – Next Steps

- **Preliminary AA report**
- Work plan for 2nd AA Stage

Step 2 should ID chemical substitutions AND other alternatives.



Second Stage of Alternatives Assessments

Step 1 – ID of Relevant Comparison Factors

- In conjunction with exposure pathways & lifecycle segments
- Quantitative / qualitative analysis
- Available data



Step 2 – Comparison of Priority Product & Alternatives

- Quantitative / qualitative analysis
- Relevant factors
 - *exposure pathways*
 - *life cycle segments*

Step 3 – Alternative Selection Decision

- **Final AA Report**
- Reason & justification for decision





Alternatives Assessments Equivalent Substitute

- **A substitute AA approach may be used if:**
 - **Comparison factors, exposure pathways & life cycle segments are the same**
 - **Work plan submitted to DTSC**



Alternatives Assessments Data Gaps

- **No requirement to fill data gaps (e.g., hazard traits) during AA**
- **AA must identify data gaps**
- **Potential regulatory response**



Alternatives Assessments Data Gaps --- WHY

- Avoids lengthy delays in completing AAs and assigning regulatory responses
- DTSC retains ability to require data gaps to be filled



Alternatives Assessments Quality Assurance

- **DTSC audits**
- **Certified assessors**
- **Publically available redacted
AA Reports**



Regulatory Responses



EXEMPTION for conflicting / duplicative requirements.



Responsibility for Compliance

One The Manufacturer who makes the product or who controls the specifications and design of, or use of materials in, the product

Two The U.S. Importer of the product

Three Retailers who sell the product in California

Opt-out by ceasing to place product in Calif marketplace.

Products...sold, offered for sale, supplied, distributed, or manufactured in California.



Consequences of Non-Compliance

- **Notice of non-compliance**
- **Failure to Comply List**
- **Enforcement action, penalties**



De Minimis

- **COCs below de minimis (or no COCs) --- no AA required for manufacturer's Priority Product (notification to DTSC)**
- **De minimis level ---**
 - **0.01% by weight - 9 specific hazard traits (e.g., carcinogens)**
 - **0.1% by weight - all other hazard traits**
 - **DTSC may specify lower or higher concentration**



De Minimis Calculation

- **Cumulative concentration of all COCs --- same hazard trait and endpoint**
- **Formulated Products --- cumulative concentration in product**
- **Assembled Products --- cumulative concentration in component**



Other Regulatory Provisions

- Chemical & product info requests
- Information on DTSC website
- Dispute process
- Trade secrets



Next Steps



Regulations Adoption

Dec 8th – Assembly Hearing

Dec 30th – Informal public
comment period ends

Approximately:

Feb 2012 – APA process begins

Fall 2012 - Adoption



Implementation Schedule

- **1st COC list --- regs effective date**
- **1st proposed Priority Products list --- 6 months after regs effective date**
- **Priority Products notification (or de minimis notification) --- 60 days after final Priority Product listing**



Implementation Schedule

- **Preliminary AA Report --- 6 months after Priority Product listing***
- **Final AA Report --- 12 months after Preliminary AA report approval***

*** Regulations allow for some time extensions and flexibility in due dates for AAs.**



Implementation Schedule

- **Regulatory Response Implementation**
 - **Due dates for some RRs specified in the regulations**
 - **Due dates for other RRs to be specified by DTSC in RR notice**



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