

SAFEGUARDS

CONSUMER GOODS AND RETAIL

CONSUMER PRODUCTS

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CALIFORNIA ISSUES FINAL DRAFT OF PROPOSED GREEN CHEMISTRY REGULATIONS

The California Office of Administrative Law has received and approved the final version of the Safer Consumer Products regulations sent to them by the Department of Toxic Substances Control on 28 August 2013.

California's Safer Consumer Products Act ("California Green Chemistry Initiative") was signed into law in 2008 and implementation rules have been under development for several years. The purpose of the law is to accelerate the quest for safer products by having toxic chemicals removed from or reduced significantly in consumer products, instead of managing these chemicals at the end of the product's lifecycle as hazardous waste¹. The California Department of Toxic Substances Control (DTSC) characterised the proposed regulation as a "preemptive strategy that reduces the use of toxic substances in the design of products and industrial processes with the aim of creating safer and sustainable products that do not threaten human health or persist in the environment."²

¹ http://www.dtsc.ca.gov/PollutionPrevention/GreenChemistryInitiative/upload/FAQs_greenchem.pdf

² <http://www.dtsc.ca.gov/LawsRegsPolicies/Regs/upload/SCP-Public-Notice-7-23-2012.pdf>

On 18 July 2013, DTSC sent the final draft of the regulation to the Office of Administrative Law for review and approval, and this approval was granted on 28 August 2013. The regulations were sent to the Secretary of State for publication in the Code of Regulations and will go into effect on 1 October 2013. DTSC will then implement the provisions of the regulation which will:

- Establish (within 30 days) an immediate list of Candidate Chemicals, with ~1,200 chemicals already identified from which the Chemicals of Concern (COC) will be chosen, and specifies a process for DTSC to identify additional chemicals as Candidate Chemicals (CCs). A CC becomes a COC when it is linked with a Priority Product.
- Provide an initial list of Priority Products (PP), with no more than five products, on the basis of one or more Candidate Chemicals in the product, and make this list available for public review and comment.

- Provide a separate rulemaking process for further development of the PP list. The list will be developed and updated once every three years through the Administrative Procedure Act's rulemaking process via a DTSC Priority Product Work Plan.

This regulation covers all consumer products placed into commerce in the State of California. The responsibility for compliance with the regulations flows downstream, from manufacturer, importer/distributor, assembler, to retailer, if the entity upstream fails to comply. However, the principal duty to comply with the requirements of the regulations lies with the manufacturer (defined as "any person who manufactures a product that is subject to the requirements of this chapter, or any person that controls the manufacturing process for, or specifies the use of chemicals to be included in, the product"). Manufacture does not mean "assemble", but assemblers of products who use a component on the Priority Product list will need to comply with the regulation.

The logo for SGS, consisting of the letters 'SGS' in a bold, sans-serif font, with a vertical line to the right of the letters and a horizontal line below the letters.

A retailer or assembler would be required to comply with the regulations only if the manufacturer and importers (if any) fail to comply, and only after this information is posted on the Failure to Comply List on DTSC's website.

A manufacturer with a Priority Product with a COC has three options. He can cease to sell in California; he can remove the COC from the product; or he can perform an Alternatives Assessment (AA). An AA is an evaluation of the risk of a Priority Product and a comparison of one or more alternatives to the COC contained within the PP. Alternatives Assessments may be conducted internally by a manufacturer or by a certified outside assessor, but all AAs will be made available for public review on the DTSC website. Part of the AA will be to determine if the COC is above or below the Alternatives Analysis Threshold (AAT). For COCs present as contaminants, this is defined as the Practical Quantitation Limit (PQL). DTSC may set AATs for COCs added to products deliberately.

After submittal and review of the AA, DTSC will issue a regulatory response that could entail providing more information to DTSC, prohibition on the sale of the product, requiring additional environmental protection measures such as an end-of-life collection programme, or more research into an alternative chemical if none currently exists.

Neither the Candidate Chemicals list nor the list of Priority Products has yet been released, but SGS will continue to monitor further developments and issue updates as these details are finalised.



Throughout our global network of laboratories, we are able to provide a range of services, including analytical testing for various restricted substances in consumer products for compliance with regulations across the world. Please do not hesitate to contact us for further information.

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