

California Publishes New Draft of Informal Green Chemistry Regulations

November 15, 2011 by [Sean Wajert](#)

Yesterday the California Department of Toxic Substances Control (DTSC) convened a Green Ribbon Science Panel (GRSP) to continue work on the state's Green Chemistry initiative.

Readers may recall from [previous posts](#) that the GRSP was established with the passage of two "green chemistry laws" in 2008, and is charged with providing advice and serving as a resource to DTSC and the public regarding the California Green Chemistry Initiative. On the agenda for the meeting this week was input from the GRSP on the recently-posted "[Safer Consumer Products Informal Draft Regulations](#)", which were published late last month. An earlier draft of those regulations, released by the DTSC last November, drew strong commentary from both industry and environmental groups. According to DTSC, a wide range of stakeholders, including those from industry, environmental groups, scientists, and legislative leaders, raised "substantive and valid concerns" about the prior draft of the regulations. DTSC eventually withdrew the draft regulations.

The latest draft regulations provide for a four-step process to identify safer consumer product alternatives: 1) create an immediate list of Chemicals of Concern (~3,000) based on the work already done by other organizations, and specify a process for DTSC to identify additional chemicals as Chemicals of Concern (COCs); 2) require DTSC to evaluate and prioritize product/COC combinations to develop a list of "Priority Products" for which an alternatives assessment must be conducted; 3) require responsible entities (manufacturers, importers, and retailers) to notify DTSC when their product is listed as a Priority Product. Manufacturers (or other responsible entities) must perform an "alternatives assessment" for the product and the Chemicals of Concern in the product to determine how best to limit potential exposures to, or the level of potential adverse public health and environmental impacts posed by, the Chemicals of Concern in the product; 4) require DTSC to identify and impose regulatory responses to effectively limit potential adverse public health and/or environmental impacts, if any, posed by the Priority Product/Chemical of Concern.

The draft regulations note that they would not apply to prescription drugs and devices; dental restorative materials; medical devices, and some other categories. But it is clear that they will impose significant new burdens on many product manufacturers, importers and sellers. The new regulations require risk assessments and life cycle analyses for prioritized products, which may lead to use limits for chemicals, reformulation requirements to eliminate targeted chemicals, or even a ban on sales of certain products in California.

And, of course, varying state regulations (in approach and content) frustrate the ability of those companies to design and market products in a global supply chain.

DTSC labels the new draft "informal," perhaps because they make substantial changes to the withdrawn set, which drew such intense scrutiny. The initial list of "Chemicals of Concern" would be far broader than previously expected; the product prioritization criteria is

revised, although it still appears likely to impact children's products, personal health, and other consumer products. But worker exposure has been added to the priority criteria as well. The regulations would also expand the list of hazards to include a wider range of hazard traits and environmental and toxicological testing endpoints. The previous exemption for unintentionally added chemicals would be eliminated, and, significantly, the "no exposure pathway" exemption would also be dropped.

The regulations would require an alternatives assessment, conducted in two stages, with a report to DTSC regarding each stage. The first stage focuses on product criteria (function, performance, technical, and legal requirements), identification of alternatives to the COC, and screening of the alternatives. The second stage would involve a detailed assessment of alternatives, focusing on exposure pathways and life cycle segments.

After evaluating the reports of the alternatives assessment, DTSC would then consider the appropriate regulatory response, which could involve a requirement of information disclosure, or more assessment, or limitation of certain uses, up to a ban.

The draft regulations would also require responsible entities to establish and pay for an end-of-life product stewardship program for any product that is to be treated as a hazardous waste in California.

Materials for the meeting are [here](#) and [here](#). On December 5, 2011, DTSC will hold a [workshop](#) on the informal draft regulations. The informal public comment period ends December 30, 2011. DTSC apparently will then develop a formal new set of proposed regulations.