

Product Responsibility Best Practices	SUBJECT California Safer Consumer Products (a.k.a. Green Chemistry Initiative)	LAST UPDATE July 2018
	APPLIES TO • Suppliers • Distributors	FOCUS ON Requirements of the California Safer Consumer Products (SCP) Regulations
	QUICK LINKS • PPAI Corporate Responsibility: www.ppai.org/corporate-responsibility/ • UL: http://industries.ul.com/premiums-promotional-and-licensed-goods • Consumer Product Safety Commission: www.cpsc.gov	

Intended for beginner compliance programs

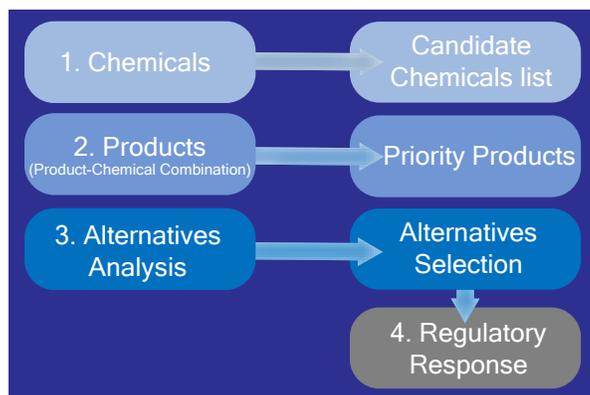
Italic grey text indicates a hyperlink listed in the Online Resources section of this document.

In 2008 the California legislature passed the *Green Chemistry Law* which gave the *California Department of Toxic Substances Control (DTSC)* authority to adopt regulations identifying and prioritizing hazardous chemicals in consumer products. The outcome of the Green Chemistry Law was California’s *Safer Consumer Products (SCP)* program that went into effect October 1, 2013, and is being phased in over the next several years.

Goals

The goals of the SCP are to protect the people of California and the environment by reducing the number and levels of toxic chemicals that are present in consumer products sold in the state; to assist consumers by identifying the chemicals that are in products they purchase; and to create new opportunities for businesses in the consumer product safety industry.

In order to accomplish these goals, the regulations require manufacturers to conduct a thorough analysis of alternatives by asking themselves two questions—if the chemical is necessary in their product and if there is a safer alternative.



Four-Step Process

Based on these two questions noted above, the SCP involves a “continuous four-step, science-based, ongoing process” intended to reduce the amount of toxic chemicals in consumer products sold in California through the use of what they deem to

be “safer substitutes.”

A. *Candidate Chemicals* contain, at minimum, one chemical known to cause harm (exhibit a hard trait) to people or the environment. The DTSC identified 164 initial candidate chemicals and the thought is that there will be approximately 1,200 chemicals in total.

The list of identified chemicals is established by using 23 existing “authoritative lists” for chemicals known to “exhibit hazard traits.” These chemical lists are separated into two categories as identified in the SCP (Cal. Code Regs., title 22, § 69502.2):

- Hazard trait-based lists – “Authoritative lists identified in 69502.2(a)(1) as they were developed based on their identification of chemicals with hazard traits.” It contains 15 authoritative chemical lists.
- Exposure potential lists - “Authoritative lists identified in 69502.2(a)(2) as they were developed based on exposure potential concerns.” This is made up of eight authoritative chemical lists.

Using the two authoritative chemical lists categories, the DTSC considers a candidate chemical as “a chemical that appears on one or more of these lists and that exhibits a “hazard trait and/or an environmental or toxicological endpoint” (as specified in Cal. Code Regs., title 22, ch. 54). The DTSC will review and update chemical lists quarterly causing the Candidate Chemicals list to evolve as revisions are made to the authoritative lists.

B. *Priority Products* are those products that have been identified as containing one or more of the “candidate chemicals.” When a candidate chemical is associated with a priority product, it becomes a chemical of concern (COC). COCs are generally considered to pose significant hazards to people and the environment. When an item is identified as a priority product the SCP regulations require that an alternative analysis be conducted to determine if “safer substitutes” are available.

The DTSC originally designated three priority products and chemicals for assessment of safer alternatives:

1. Children's foam padded sleeping products containing the flame retardant TDCPP, also known as chlorinated tris.
2. Paint and varnish strippers and surface cleaners with methylene chloride.
3. Spray polyurethane foam (SPF) systems containing unreacted diisocyanates (insulation)

In September 2014, the DTSC proposed a three-year *Priority Product Work Plan*. "The work plan is intended to provide a higher level of predictability regarding potential regulatory actions DTSC will take in the future." – Section 2.0 Background and Goal Page 9.

The following are the initial target product categories listed in the work plan:

1. Beauty, personal care and hygiene products
2. Building products (adhesives, paints, sealants, etc.)
3. Household, office furniture and furnishings
4. Cleaning products
5. Clothing
6. Fishing and angling equipment
7. Office machinery (i.e. ink cartridges)

C. *Alternatives Analysis* is a process by which existing chemicals contained in a product are compared against alternative chemicals to determine if safer substitutes are available. This process is conducted by what the SCP refers to as "responsible entities" when their product is considered a priority product due to containing one or more candidate chemicals. According to the DTSC, the responsible entities include manufacturers, importers, retailers, and assemblers.

Once a product is determined to be a priority product, the responsible entities must:

1. Report to the DTSC that their product is listed as a priority product
2. Conduct an alternative analysis to determine the level of COCs in the product
3. Provide a solution to reduce existing levels, limit potential exposure or find a safer substitute to replace the current COC
4. Submit a report to the DTSC which they will review to determine if the solution provided will pose or continue to pose a significant risk to people or the environment

Based on the alternative analysis a responsible entity may decide to keep a priority product on the market in California or replace the priority product with a different product. In some cases, when additional time may be needed to review and file a report, a responsible entity will need to request an interim regulatory response.

D. *Regulatory Responses* will be provided by the DTSC to the responsible entity within 60 days of receiving the alternatives analysis report. The DTSC will review the report

and issue one of the following notices:

- Notice of compliance is an approval from the DTSC with a 12-month waiting or finalization period
- Notice of deficiency indicates that the responsible entity has 60 days to revise the noted deficiency and provide the DTSC with a new report
- Notice of disapproval is issued when the final revised report does not address noted deficiencies to the satisfaction of the DTSC
- Notice of ongoing review will be issued when the DTSC needs to extend the review period based on complexity and/or available resources

The listed regulatory responses on the SCP website include:

1. Supplemental alternative analysis (AA) report information and regulatory response revisions
2. Product information for consumers
3. Use restrictions
4. Product sales prohibition
5. Engineering or administrative controls
6. End-of-life product management program
7. Advancement of green chemistry and green engineering
8. No regulatory response

Summary

Assuming that safer alternatives do exist for a product, the DTSC expects that by including chemical toxicity at the design and development stage, responsible entities will be able to more effectively mitigate risks and hazard concerns. Knowledge and due diligence on behalf of responsible entities are the only way to manage the SCP effectively.

Online Resources

California Department of Toxic Substances Control:

www.dtsc.ca.gov/

Safer Consumer Products Regulations Text:

www.dtsc.ca.gov/LawsRegsPolicies/Regs/upload/SCP-Final-Regs-Text-10-01-2013.pdf

DTSC Candidate Chemical List:

<https://calsafer.dtsc.ca.gov/chemical/search.aspx>

Candidate Chemical Terms www.dtsc.ca.gov/SCP/ChemListTerms.cfm

Authoritative Lists: www.dtsc.ca.gov/SCP/SourceLists.cfm

Alternative Analysis Resources:

www.dtsc.ca.gov/SCP/AlternativesAnalysisResources.cfm

Priority Product Work Plan:

www.dtsc.ca.gov/SCP/upload/PriorityProductWorkPlan_2015.pdf

Division 4.5, Title 22, Chapter 55, Article 6.

Regulatory Responses: www.dtsc.ca.gov/LawsRegsPolicies/Regs/upload/SCP-Final-Regs-Text-10-01-2013.pdf#page=53

SCP Resources: www.dtsc.ca.gov/SCP/SCP-Resources.cfm

Safer Consumer Products Process Flow Chart:

www.dtsc.ca.gov/SCP/upload/SCPRegFlowChart.pdf

Green Chemistry Law: www.dtsc.ca.gov/SCP/SCP-Regs-GreenChemistryLaw.cfm

OEHHA: oehha.ca.gov/

Prop 65: oehha.ca.gov/proposition-65

Table 1 Section 69502.2(a)(1) Chemicals List and Criteria

Section 69502.2	Criteria #	1: Authoritative organization				3	4	5
	Chemical List	Hazard Trait	Regulatory Basis	Enforcement Consequence	Policy or Risk Manag. Decision	Harmonize	Strong Evidence	Updated
(a)(1)	The chemical exhibits a Chapter 54 hazard trait and/or an environmental or toxicological endpoint, and is on one or more of the following lists:							
(A)	CA Proposition 65	Carcinogenicity Developmental Reproductive	X	X	X	X	X	X
(B)	EU CMR	Carcinogenicity Mutagenicity Reproductive	X	X	X	X	X	X
(C)	EC Cat. 1 Endo. Disrupt.	Endocrine Toxicity			X	X	X	X
(D)	IRIS neurotoxicity	Neurotoxicity			X	X	X	X
(E)	IRIS carcinogens	Carcinogenicity			X	X	X	X
(F)	12 th Report on Carcinogens	Carcinogenicity			X	X	X	X
(G)	ESIS PBT	Persistence Bioaccumulation	X	X	X	X	X	X
(H)	CEPA PBT	Persistence Bioaccumulation	X	X	X	X	X	X
(I)	EC Cat. 1 Respir. Sensitiz.	Respiratory Toxicity	X					
(J)	IARC	Carcinogenicity			X	X	X	X
(K)	Neurotoxicants ATSDR	Neurotoxicity			X	X	X	X
(L)	U.S. EPA National Waste Minimization Program PBTs	Persistence Bioaccumulation			X	X	X	X
(M)	NTP OHAT reproductive and developmental toxicants	Reproductive Developmental			X	X	X	X
(N)	TRI PBTs	Persistence Bioaccumulation	X	X		X	X	X
(O)	Washington PBTs	Persistence Bioaccumulation	X		X	X	X	X

Table 2 Section 69502.2(a)(2) Chemical List and Criteria

Section 69502.2	Criteria #	1: Authoritative organization				2	3	5
	Chemicals List	Hazard Trait*	Regulatory Basis	Enforcement Consequences	Supports Policy or Risk Management Decisions	Media/ Receptor	Harmonize	Updated
(a)(2)	The chemical is one or more of the following types of chemicals:							
(A)	CA Notification Levels	Various	X	X		Water/ Human		X
(B)	CA Maximum Contaminant Levels (MCLs)	Various	X	X		Water/ Human		X
(C)	CA Toxic Air Contaminants	Various		X		Air/Human	X	X
(D)	Federal Clean Water Act 303(c) and 303(d) pollutants	Various	X	X		Water/ Environment		X
(E)	OEHA REL	“noncancer endpoints” (Various)	X		X	Air/Human		X
(F)	California Biomonitoring Program Priority Chemicals	Various	X		X	Unknown/ Human		X
(G)	Fourth National Report on Human Exposure to Environmental Chemicals	Various			X	Unknown/ Human	X	X
(H)	OSPAR List of Chemicals for Priority Action Part A	Persistence, Bioaccumulation			X	Water/ Environment	X	X

Criteria #	Chemicals List Criteria
1	The chemicals list was supported, sponsored, and/or developed by an authoritative organization, such as, a state, federal, or international agency, to protect public health or the environment. For example, the chemicals/chemicals list: <ul style="list-style-type: none"> is adopted as part of a regulatory scheme and may have enforcement consequences exhibit a hazard trait based on the authoritative organization’s determination is used to support or make policy or risk management decisions to protect public health and/or the environment
2	The chemicals list was developed to prevent or limit potential public and/or environmental exposures
3	Harmonization with chemicals lists and hazard traits identified by the States of Washington, Maine, and Minnesota with similar chemicals programs
4	The chemicals on the list meet the “strong evidence” criteria for toxicological hazard traits or the “evidence” criteria for the exposure potential hazard traits, as specified in Chapter 54
5	The chemicals list is reviewed and updated periodically; not meant to be a static list

Source: California Department of Toxic Substance Control (DTSC)