

E-mailed from the

ASSEMBLY COMMITTEE ON
ENVIRONMENTAL SAFETY AND TOXIC MATERIALS

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To: Members of the Assembly Committee on Environmental Safety & Toxic Materials

From: Assemblymember Bob Wieckowski, Chair

Subject: Oversight Hearing on Safer Consumer Products (“Green Chemistry”) Informal Draft Regulations

The Assembly Environmental Safety and Toxic Materials Committee (ESTM) oversight hearing on Thursday, December 8, 2011, is the fifth ESTM hearing on the California Green Chemistry Initiative. The December 8th hearing will focus on the Safer Consumer Products (“Green Chemistry”) informal draft regulations released by the Department of Toxic Substances Control (DTSC) on October 31st, 2011.

DTSC is promulgating the Green Chemistry informal draft regulations as required by Assembly Bill 1879 (Chapter 509, Statutes of 2008). AB 1879 lays the statutory foundation for the state's Green Chemistry Initiative by requiring DTSC to adopt regulations that establish a process, by January 2011, to identify and prioritize chemicals of concern (COCs) in consumer products. It also requires DTSC, within that same timeframe, to adopt regulations that establish a process for evaluating COCs, and their potential alternatives, in order to limit exposure or reduce the level of hazard posed by the COC. Statue also requires the regulations to specify the range of regulatory responses that DTSC may take to reduce public and environmental exposure to COCs.

Beginning in 2009 and throughout 2010, DTSC, under the Schwarzenegger administration, released a series of documents in preparation for promulgating the required regulations. In June 2010, DTSC released draft regulations and in September 2010, it released proposed regulations. The proposed regulations were then substantially amended in November 2010. The regulations were never finalized.

On October 31, 2011, under the Brown administration, DTSC released informal draft regulations, which were significantly different than previous draft and proposed regulations. This hearing is examining this latest set of informal draft regulations. A timeline highlighting DTSC action on the regulations required by AB 1879 follows.

Timeline of DTSC Action on the Regulations Required by AB 1879:

- September 2008: AB 1879 enacted
- October 1, 2009: DTSC released the Draft Straw Proposal for Regulations for Safer Products
- February 23, 2010: DTSC released the Conceptual Flowchart for Regulations for Safer Products
- April 15, 2010: DTSC released an Outline of the Draft Regulations for Safer Consumer Products
- June 23, 2010: DTSC released Draft Regulations for Safer Consumer Product Alternatives
- September 2010: DTSC released Proposed Regulations for Safer Consumer Products (R-2010-05)
- November 2010: DTSC released a Revision of the Proposed Regulations for Safer Consumer Products (R-2010-05)
- December 23, 2010: Cal EPA Secretary Linda Adams requested that DTSC reconvene the Green Ribbon Science Panel to vet issues expressed during the public comment periods
- August 12, 2011: a Notice of Decision Not to Proceed was published in the California Notice Register 2011 to withdraw DTSC's proposal to adopt regulations for Safer Consumer Product Alternatives within one year
- October 31, 2011: DTSC released Informal Draft Regulations for Safer Consumer Products (R-2011-02)

Informal Draft Regulations: The Informal Draft Regulations released by the DTSC on October 31st, 2011, along with supporting documents and videos, can be found on DTSC's website at <http://www.dtsc.ca.gov/SCPRegulations.cfm>.

Summary of the Informal Draft Regulations: Four-Step Process (per DTSC): The regulations provide for a four-step continuous, science-based, iterative process to identify safer consumer product alternatives:

1. DTSC --- The regulations establish an immediate list of COCs (approximately 3,000) based on the work already done by other authoritative organizations, and specify a process for DTSC to identify additional chemicals as COCs.
2. DTSC --- The regulations 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. Product Manufacturers --- The regulations require responsible entities (manufacturers, importers, and retailers) to notify DTSC when their product is listed as a Priority Product. DTSC will post this information on its website. Manufacturers (or other responsible entities) for a product listed as a Priority Product must perform an alternatives assessment (AA) for the product and the COC in the product to determine how best to limit potential exposures or the level of potential adverse public health and environmental impacts posed by the COC in the product.
4. DTSC --- The regulations 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/COC (if the manufacturer decides to retain the Priority Product), or the potential adverse impacts posed by the alternative chemical/product selected to replace the Priority Product.