

Proposed “Safer Consumer Product Regulations”

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Draft regulations regarding toxic substances in consumer products were issued for comment by the California Department of Toxic Substances Control (DTSC) on July 27, 2012.

Referred to as the “Safer Consumer Product Regulations”, the new rules seek to regulate and potentially ban chemicals that California deems hazardous. The goal of the proposed rules will also be to encourage safer alternatives in products that use the identified hazardous materials.

“Using a world-wide recognized list of ‘chemicals of concern’ the regulation would create a process by which manufacturers who are using one of those listed chemicals must identify and examine the viability of safer ingredients. If an alternative is not feasible, DTSC will identify steps the manufacturer must take to ensure the product is safely used, disposed of, or phased out.” [[DTSC News Release](#)]

According to a [recent publication](#), if manufacturers fail to comply with the regulations, importers of such products would then become responsible for doing so. If, in turn, importers fail to comply with the regulations, retailers are obligated to do so.

As such, the proposed rules may impose additional reporting and compliance requirements on companies using products that contain these newly identified chemicals, not to mention increased risk of litigation, similar to the effect of Prop 65 (The Safe Drinking Water and Toxic Enforcement Act of 1986).

Prop 65 aimed to reduce or eliminate certain toxic substances in drinking water and consumer products by prohibiting businesses from discharging such in ways that might lead to drinking water, or exposing people to the listed substances without advance warning.

The Safer Consumer Product Regulations are another step in this direction and could provide an incentive for California businesses to create new versions of common goods with alternative and less toxic chemicals than those identified by the State.

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