The End of the Age of Innocence: U.S. Chemicals Policy

States leadership on sustainable chemicals management

Ken Zarker, Co-chair
P2 Policy and Integration Committee
2008 Green Chemistry and Commerce Innovators Roundtable
July 11, 2008
Portland, Oregon
Emerging States Chemicals Policy Framework

- Ban toxic chemicals (flame retardants/phthalates)
- Move away from “chemical by chemical” approach.
- Proactive to address global chemicals policy.
- Collaboration & focus on high priority chemicals.
- Safer Chemical Alternatives.
- Green Chemistry Innovation & Economic Opportunity
What does state chemicals policy reform look like?

Pollution is waste, and waste leads to shortages tomorrow…

Dr. Joseph Ling
History of state level chemicals policy

- Hazard Communication/right to know
- Pollution Prevention
- State level restrictions
- Packaging/labeling
- Overarching strategies
- Local, State and regional
  - Great Lakes
  - New England Governors
Michigan Green Chemistry Action Plan

• Define parameters of the Green Chemistry Program.
• Build a database of Green Chemistry activities in Michigan.
• Create a Green Chemistry "brand."
• Green Chemistry Research & Education Conference.
• Develop an annual Green Chemistry Awards Program.
• Set the groundwork for long-term Green Chemistry efforts that will benefit the economy, environment, and health.
• Establish opportunities for sustainable adoption of Green Chemistry within education.
“I do not believe that addressing this type of concern in the legislature on a chemical by chemical, product by product basis is the best or most effective way to make chemical policy in California.”

Governor Schwarzenegger’s Signing Statement for Assembly Bill 1108 (phthalates).

Cal/EPA Green Chemistry Initiative: http://www.calepa.ca.gov/
“However, the toy recalls from last year make it clear: We can’t wait any longer for the federal government to take action. For these reasons, I am pleased to sign legislation that will lead to high standards for toys and other children’s products sold in Washington state. Our children need and deserve nothing less.”

Governor Chris Gregoire signing HB 2647

April 1, 2008
WA Children’s Safe Products Act (HB 2647)

Beginning July 1, 2009, manufacturers, wholesalers, and retailers are prohibited from manufacturing, selling, offering for sale, distributing for sale, or distributing for use a children's product or product component that contains:

– Lead at more than .009 percent by weight (90 ppm);
– Cadmium at more than .004 percent by weight (40 ppm); or
– Phthalates at more than 0.1 percent by weight (100 ppm).
WA Children’s Safe Products Implementation

• Rulemaking to clarify that electronic components that are internal to children’s products and not accessible during the products’ intended use are outside the regulatory scope of this legislation and rule.

• High priority chemicals of high concern to children & children’s products that contain them.
“Maine is a leader in protecting our children from harmful chemicals”

Governor John E. Baldacci
signing LD 2048
May21, 2008
**Maine**

1. **Identification of Priority Chemicals**

   DEP with CDC publishes list of “chemicals of high concern” from existing government lists.

   DEP convenes stakeholders to advise on designation of priority chemicals, **Summer 2008**

   From the list of chemicals of high concern, DEP in consultation with stakeholders designates at least 2 “priority chemicals” by **1/1/2011**

   **Part 2**

   **De minimis levels**

   *Deadline of 1/1/2010 vetoed to finalize list of high priority chemicals.*

**Washington**

1. **Identification of High Priority Chemicals**

   Ecology in consultation with DOH identifies 50 high priority chemicals of high concern to children based on exposure potential & EU and CA safety testing.

   Ecology identifies products or product categories that may contain chemicals identified as high priority.

   Ecology submits report on chemicals of high concern and children’s products/product categories to Legislature, along with policy options for addressing products identified and consumer education, **1/1/2009**

   **2009 Legislature considers policy options and any proposed changes to 2008 bill.**

   **END OF CURRENTLY DEFINED ACTION STEPS**

2. **Advisory Group**

   Governor establishes advisory group to work with Ecology and DOH (**no end date noted**):

   - Make sure bill is implemented with common sense
   - Recommend rules and changes as needed with regard to car seats
   - Look at standards for outer surface and inside of toys, timelines required to meet new standards
   - Develop recommendations for legislation next session for safe products in a manner practical and achievable for industry

3. **Pb, Cd, Phthalate Ban**

   Ecology initiates expedited rulemaking to clarify that internal electronic components are not impacted by Pb, Cd, and phthalate ban.

   Ban on sale and distribution of children’s products containing lead, cadmium, or phthalates above **de minimis** levels, **7/1/2009**
Maine

2. Collection and Review of Data on High Priority Chemicals

Upon designation of a priority chemical, manufacturers of children's products must disclose data on their use of the chemical.

DEP collects, compiles and reviews data from manufacturers and relevant data from other sources.

Does data suggest need for safer alternatives?

Yes

Part 3

No

No further action

Washington

Six months after Ecology finalizes list of high priority chemicals, manufacturers of children's products must disclose data on their use of the chemicals.

Ecology / DOH coordinates child product safety education campaign on unsafe children's products, including those containing high priority chemicals.

The reporting requirement is not scheduled to go into effect, because it depends on a finalized high priority chemical list, the deadline for which was vetoed.

The Governor retained the reporting requirement "as a future tool for ensuring the safety of our children, as needed." The veto calls for a review of the extent of reporting, duplication with current industry testing, CBI concerns, and efficient implementation.

END OF WA FLOWCHART
Maine

3. Identification of safer alternatives

DEP requests alternatives assessment from manufacturers of children’s products that contain the chemical

DEP collects and reviews information on availability and safety of alternatives

Are safer alternatives available?

Yes

No

No further action

No further action

Similar to WA ban on children’s products containing Pb, Cd, and phthalates above de minimus levels, effective 7/1/2009.

4. Restrictions on the sale of children’s products

Board of Env. Protection initiates major substantive rulemaking to ban the sale of children’s products that contain the priority chemical

BEP solicits, reviews and responds in writing to comments from interested parties

BEP provisionally adopts rule

Legislature approves final rule adoption

Sale of product banned

No further action

No further action

Draft, 6/20/08
Substitute HB 5650
Connecticut Child Product Safety Act

Governor M. Jodi Rell, 87th Governor of Connecticut signing HB5650 on June 2, 2008
The Commissioner of Environmental Protection may, within available appropriations, participate in an interstate clearinghouse to

(1) classify chemicals existing in commercial goods into one of the following four categories:

(A) High concern, (B) moderate concern, (C) low concern, or (D) unknown concern;

(2) organize and manage available data on chemicals, including, but not limited to, information on uses, hazards and environmental concerns associated with chemicals;
(3) produce and inventory information on safer alternatives for specific uses of chemicals and model policies and programs related to such alternatives;

(4) provide technical assistance to businesses and consumers relating to safer chemicals; and

(5) other activities.
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