



## DTSC Designates First Priority Product: Children's Foam-Padded Sleeping Products

GREEN CHEMISTRY, DTSC, PRODUCT STEWARDSHIP

By ROGER PEARSON, June 29, 2017

In 2008 legislation was adopted requiring the Department of Toxic Substances Control (DTSC) to adopt a program to require manufacturers of consumer products to limit exposure to unsafe chemicals in their products. Nine years later DTSC has finally named a single product whose manufacturers, if any, will be required to determine whether there is a safer alternative.

The 2008 legislation led to the establishment of DTSC'S Safer Consumer Products program. After a couple of false starts DTSC adopted regulations implementing the program in 2013. The regulations require DTSC to first come up with a list of "candidate chemicals." It then must designate "priority products" containing one or more of those chemicals. Finally, manufacturers of any of those priority products are required to prepare an "alternatives analysis" intended to evaluate whether a safer alternative exists.

The Department took the first step by adopting its list of candidate chemicals based on various lists of suspect substances prepared by various government agencies. In March of 2014 DTSC identified three chemical-product combinations as its first candidates for priority products.

In July of last the Department formally proposed to designate the first of these candidate chemicals—**children's foam-padded sleeping products with TDCPP or TCEP<sup>1)</sup>**—as a priority product. The Department accepted comments on the proposal through August of last year and held a hearing on August 29. After some minor revisions in the regulatory package the Department finalized the designation and sent it on to the Office of Administrative Law, which approved the regulation [see **DTSC Proposes First Priority Product Under Safer Consumer Products Legislation<sup>2)</sup>**, July 30, 2016]. The designation of the children's sleeping products containing either of the two flame retardants TDCPP or TCEP will become final on July 1, 2017. Any manufacturer of such a product intending to sell it in California will now be required to prepare an alternatives analysis (AA) within a specified period of time.

The Department received only a few comments on the proposal with no one actually opposing it. Most manufacturers of children's sleeping and similar products no longer add the suspect flame retardants. For that reason the Department doubts that any manufacturer will bother to go through the process of preparing an AA.

Fate of Other Priority Product Candidates

In March the Department formally proposed to designate a second priority product—**spray polyurethane foam with unreacted MDI**<sup>3)</sup>. Unlike the children's sleeping product designation, this proposal is generating some actual opposition. Opponents submitted comments opposing the designation during the public comment period and at a May 16 hearing.

The third candidate "priority product" is **paint stripper containing methylene chloride**<sup>4)</sup>. The Department has yet to formally propose this designation.

## Resources for this article

### 1. children's foam-padded sleeping products with TDCPP or TCEP

[http://www.dtsc.ca.gov/LawsRegsPolicies/Regs/Childrens\\_Foam\\_Sleeping\\_Products.cfm](http://www.dtsc.ca.gov/LawsRegsPolicies/Regs/Childrens_Foam_Sleeping_Products.cfm)

### 2. DTSC Proposes First Priority Product Under Safer Consumer Products Legislation

<https://prop65clearinghouse.com/articles/12545>

### 3. spray polyurethane foam with unreacted MDI

<https://calsafer.dtsc.ca.gov/Comments/PackageDetail.aspx?PID=11831>

### 4. paint stripper containing methylene chloride

[http://www.dtsc.ca.gov/SCP/Paint\\_Stripper.cfm](http://www.dtsc.ca.gov/SCP/Paint_Stripper.cfm)