

# ISSA'S CALIFORNIA SAFER CONSUMER PRODUCTS PROGRAM SUMMARY DOCUMENT



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ISSA® 3300 Dundee Rd. Northbrook, IL 60062 US  
847.982.0800 / 800.225.4772 / issa.com

## California Safer Consumer Products Program

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California developed a regulatory system to reduce public exposure to toxic chemicals in consumer products, which are a major source of public exposure. The regulatory framework became effective **October 1, 2013**.

The California Safer Consumer Products Program (SCP) is a Green Chemistry Initiative which aims to reduce toxic chemicals in consumer products by promoting the development and introduction of “safer” consumer products that are “benign by design,” and in turn, enhance public health, safety, and protection of the environment. Despite its name, SCP also covers commercial and institutional cleaning products.

The enabling legislation that set up the California Safer Consumer Products Program, [AB 1879](#), was passed September 29, 2008. It authorized the Department of Toxic Substances Control (DTSC), which is a part of the California EPA, to adopt a process to identify “chemicals of concern” in designated “Priority Products,” and evaluate them against their potential alternatives. This process has six steps:

1. **Identifying “Candidate Chemicals:”** On September 26, 2013, the DTSC listed approximately 1,200 “candidate chemicals” of concern based on numerous authoritative lists (such as California Proposition 65, USEPA’s Integrated Risk Information System, California Toxic Air Contaminants, etc.) which was narrowed down to 164 candidate chemicals once exposure criteria for Priority Products was developed.

Candidate Chemicals:  
The SCP regulations identify a set of authoritative lists. Any chemical on one or more of these authoritative lists is a Candidate Chemical.

Many Candidate Chemicals have been mentioned that are relevant to the cleaning industry:

- Alkyl phenol ethoxylates (nonyl phenol ethoxylates, or NPEs, for example)
- Hydrogen fluoride
- Phthalates
- Triclosan
- Volatile solvents, including n-hexane, methyl ethyl ketone, n-methyl-pyrrolidone, toluene, and xylene

2. **Picking “Priority Products:”** Priority Products are contemplated throughout a three year period that follows a “Work Plan,” and are selected according to hazardous traits and exposure potential for chemicals in the products.

A Priority Product is a consumer product identified by California that contains one or more candidate chemicals associated with a hazard trait.

### Work Plans

The DTSC’s 2015-2017 Work Plan and 2018-2020 Work Plan each describe seven product categories from which the DTSC will select Priority Products over a 3-year period.

Although a couple of the categories changed from the first Work Plan to the second, both Work Plans have a Cleaning Products category.

According to the DTSC Work Plans, “workers in custodial service operations can be at higher risk for exposure to Candidate Chemicals in cleaning products than the public because of the amount of time they spend using these products on the job.

There are studies suggesting exposure to some of these chemicals may adversely affect worker health,” by inducing things like asthma, respiratory diseases, and dermatological diseases.

The health of low-income cleaning service providers may be disproportionately hit, many of whom live in environmental justice communities and are subject to multiple environmental stressors.

In addition to human health, the DTSC is also concerned about the health of aquatic ecosystems, as some chemicals are not removed before they reach marine life.

### **2015-2017 Work Plan**

[The 2015-2017 Work Plan](#) and 3-year Priority Product selection period are complete. No official Priority Products were particularly relevant to the cleaning industry.

### **2018-2020 Work Plan**

[The 2018-2020 Work Plan](#) is complete, and the 3-year Priority Product selection period is underway, so the second group of official Priority Products have not yet been designated.

Examples of cleaning products that were mentioned specifically in the 2018-2020 Priority Product Work Plan are:

- Air Fresheners
- Products for waxing, polishing, cleaning or treating the exterior or interior surfaces of motor vehicles
- Soaps
- Detergents
- Polish
- Wax
- Restorers

While the second group of Priority Products is not yet finalized, the DTSC is considering two chemicals that are of particular concern to the cleaning industry for potential Priority Products:

- The surfactants nonylphenol ethoxylates (NPEs) in some laundry detergents and commercial and household cleaners
- 1,4-dioxane in some beauty, personal care, hygiene, and cleaning products

The final two chemicals, NPEs and 1,4-dioxane are Candidate Chemicals that are covered in multiple parts of the Work Plan.

NPEs are still found in some consumer products, although they are on their way out due to product reformulation. Rinse-off from these products can lead to it entering the water supply: they are “persistent and bio-accumulate in the environment; and their toxicity increases with environmental degradation.” While some human health impacts have been identified as resulting from NPE exposure, DTSC emphasizes that “human health is not a focus of this potential Priority Product identification.” Read DTSC’s May 11, 2018 NPE notice for consideration [here](#).

1,4-dioxane is a contaminant which, like NPEs, can enter the water supply, as it is highly mobile and persistent in water and not removed by most standard forms of water treatment. DTSC is concerned about the potential adverse impacts to Californians from exposure, especially in children and environmental justice communities, as well as impacts on California’s ability to beneficially reuse wastewater. 1,4-dioxane is likely a human carcinogen. Read the May 24, 2019 notice for consideration [here](#). **Two public meetings will occur on June 28, 2019 and August 21, 2019, and the chemical is open to public comment until Wednesday, August 21, 2019 at 11:59 P.M. You can submit comments and information [here](#).**

3. **Matching of Priority Products with Chemical of Concern:** The DTSC proposes the PP-chemical combinations of concern based on factors such as waste production, life cycle impacts, and availability of safer alternatives.
4. **Notification of Match:** The manufacturer or other responsible entity must check the list and notify the DTSC regarding a match of “Priority Product” to selected “Chemicals of Concern.” They must agree to either reformulate the product to remove the chemicals of concern or replace it with a safer alternative. This may impact sales because the manufacturer must stop the sale of the Priority Product in California unless they agree to perform the Alternatives Analysis Assessment process.
5. **Performing Alternatives Analysis:** An Alternatives Analysis compares the existing product-chemical combination that contains a hazardous chemical with alternatives such as chemical substitution or product redesign/reformulation, and either justifies their current product-chemical combination or favors a safer alternative. The assessment asks the manufacturer whether the chemical is necessary and whether a safer alternative exists.
  - A. The Preliminary Alternatives Assessment (AA) Report:
    - a. Identifies why a chemical of concern, or a substitute of it, is necessary to meet certain product criteria, such as function, performance, technical and legal requirements;

- b. Identifies and conducts an initial screening of alternatives to the usage of the chemical of concern, and proposes a Work Plan;
  - c. The draft is due to DTSC within 180 days after formal listing of the Priority Products.
  - d. The DTSC has 2 months to review the draft.
- B. The Final Alternatives Assessment (AA) Report:
- a. The Final AA requires a more detailed assessment of alternatives, in which the Product and each alternative must be evaluated with respect to relevant considerations, including associated exposure pathways and life-cycle segments.
  - b. The responsible party either selects an alternative that will replace or modify the Priority Product, decides not to modify the Priority Product, or discontinues the distribution of the Priority Product in California.
  - c. The final AA report is due to DTSC within one year after the date DTSC issues a Notice of Compliance for the Preliminary AA Report, unless an extension of up to one year is granted by DTSC.
  - d. The DTSC has 2 months to review the report.

“A to M” Criteria that must be analyzed and described in the Alternatives Analysis:

- A. Product function/performance
- B. Useful life
- C. Materials/resource consumption
- D. Water conservation
- E. Water quality impacts
- F. Air quality impacts
- G. Product use, transportation, energy inputs
- H. Energy efficiency
- I. Greenhouse gas emissions
- J. Waste and end-of-life disposal impacts
- K. Public health impacts: sensitive populations
- L. Environmental impacts
- M. Economic impacts

While the Alternatives Assessment can identify alternatives preferable to human health and the environment, it is a time-consuming and expensive process. Additionally, it requires a host of trade-offs, as no alternatives will be better according to *every* factor than the existing chemical of concern.

The findings of each Product Producer’s Alternatives Analysis report will ultimately determine what regulatory response, if any, DTSC may impose.

6. **Regulatory Response:** The DTSC issues a regulatory response to the analysis. Numerous options for regulatory responses are provided by the Safer Consumer Products Program:

- Requesting additional information and revisions
- Requesting product information for consumer use
- Requesting use restrictions/additional safety measures
- Prohibiting sales of the products in California
- Requiring engineering or administrative controls
- Requiring better end-of-life product management
- Requiring industry to contribute to research on green chemistry and green engineering
- No regulatory response

As of March 5, 2019, no manufacturer has submitted an alternatives analysis, so no regulatory responses have been issued.

#### **What ISSA Members Should Be Thinking About and Doing Now:**

- Monitor the DTSC SCP web portal for developments of concern to your company
- Monitor possible TSCA Reauthorization preemption efforts
- Review and comment on next Priority Products Work Plan
- Conduct and develop the preliminary and final Alternatives Analyses Reports on Priority Products
- Consider ISSA-based or company-based strategy for the above, with assistance of internal resources, as well as specialized scientific, legal, and environmental administrative lobbying expertise with SCP program, DTSC contacts and credibility with Agency, as well as toxicological, exposure assessment and health risk assessment
- Attend the public meetings conducted for substances of concern to your product formulations

#### **What Does This Mean for the Rest of the Country?**

The SCP has allowed California regulators to model a working program for other states. For example, on May 8, 2019, Washington's Governor signed the Pollution Prevention for Our Future Act ([SB 5135](#)), the "nation's strongest legislation regulating harmful chemicals in consumer products." It will be effective July 28, 2019.

The SCP was also a beacon for Congress, as it was a stepping stone toward reforming the [1976 Toxic Substances Control Act](#), an outdated legislation for chemical regulation. The TSCA was finally reformed in 2016 and was set forth to regulate thousands of consumer products, including cleaning products. Industry insiders believe that the SCP will be the precursor to federal action taken under the auspices of the TSCA as reformed by the Lautenberg Chemical Safety for the 21<sup>st</sup> Century Act.

#### **Proposed Legislation**

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In October 2018, the Public Health Institute issued a report titled "California's Green Chemistry Initiative at Age 10: An Evaluation of its Progress and Promise" which evaluated the "strengths and challenges" of the Safer Consumer Products Program. In response to the report's identified weaknesses of the SCP, [SB 392](#) was introduced, which: expands the candidate chemicals list, strengthens data call-in authority, establishes a procedure for bypassing alternatives analyses, limits availability of the informal dispute resolution process, and adds requirements for Priority Product work plans. If it advances through the legislative process in its current form and becomes law, this bill will significantly impact consumer product companies throughout the entire supply chain.

See the [Safer Consumer Products Web Portal](#) and DTSC [Workshops and Events Webpage](#) for more information.

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[Safer Consumer Products Regulations Webinar Presentation 10/24/17](#)

[ChemicalWatch: California's SCP Regulations](#)

[Cattermole Consulting: What is the SCP Program?](#)

[Clean Production Action: How to Comply with California's New Safer Product Regulations](#)

[CMTA: Green Chemistry Program Targets Initial Products](#)

[GreenBiz: California's Green Chemistry Law Goes Into Effect](#)

[CLCV: California Green Chemistry Starts Today](#)

[Center for Effective Government: New California Regulations Lead the Way in Protecting Consumers from Toxic Chemicals](#)

[Chemical & Engineering News: Washington State Targets Toxic Chemicals](#)

[Safer Chemicals, Healthy Families: Washington State Passes Nation's Strongest Legislation Regulating Harmful Chemicals in Consumer Products](#)

[Morrison Forester: California's Green Chemistry Agency Issues Its Draft 2018-2020 Three-Year Priority Work Plan](#)

[Arnold & Porter: California Legislature Proposes Significant Changes to California's SCP Program](#)

[ChemicalWatch: California Eyes 1,4-Dioxane in Certain Consumer Products](#)