

**CPSA Request for Comments**  
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1) Issues associated with the 'reporting list' – the list of chemicals that triggers reporting by manufactures.

a) How many chemicals should be on the reporting list?

**It appears that this issue has been already resolved by DOE – approximately 50 chemicals.**

How should they be selected or prioritized?

**This should be an objective process that ideally uses an algorithm to identify high priority chemicals. The chemicals should be evaluated based on exposure potential (how likely are children to be exposed and at what concentrations) as well as toxicity risk (if exposed, what is the human health risk).**

Should the selection process be specified in the rule?

**Absolutely – this can always be amended in the future if necessary.**

Should there be allowance for chemical exemptions such as Generally Recognized As Safe (GRAS) chemicals? See <http://www.foodsafety.gov/~dms/eafus.html> for list of chemicals.

**I strongly believe there should not be exemptions regardless of what regulatory body or structure deems them allowable. Each chemical should be evaluated by the same selection/prioritization process. If they are truly safe, they will end up at the low end of the priority list.**

b) Should chemicals that are not ordinarily used in consumer products be excluded? If so, how do we know what chemicals are not ordinarily used? For example in a recent study tetrachlorethylene and 4-nonylphenol were found in some children's products.

**This is beyond my area of expertise. While I feel all chemicals should be included, it appears that it is up to the manufacturer/retailer to report what is in children's products. If they cannot report, then mandatory testing would be needed.**

c) For this list of issues 'de minimis means the amount of a substance in a product which would trigger reporting. Should there be a 'de minimis'

value for the chemicals on the reporting list? If so, what should it be based on? Should United States National Toxicology Program (US NTP) See - <http://ntp.niehs.nih.gov/>, Consumer Product Safety Commission (CPSC) See- <http://www.cpsc.gov/> and EPA exposure limits be used? Should the de minimis level be based on something other than risk, such as detection limit?

**No, I do not think there should be a “de minimis” value. In toxicology, a minute amount of one substance may cause much more harm than a large amount of another substance. This issue of exposure concentration should be incorporated into the selection/prioritization process.**

**Given that we can only list 50 or so chemicals, I do not think this will be a big issue.**

d) If a reporting list is in the rule, should the list also include the ‘de minimis’ limit? If the ‘de minimis’ value is in the rule, how would we deal with situations where new information shows that it should be adjusted?

**Again, I do not think a ‘de minimis’ limit should be in the rule.**

e) Can the public recommend that chemicals be removed or added to the reporting list? If so what should the process be? What criteria and timeline should the agency use to make a determination or decision to add or remove a chemical? Should these criteria be in the rule? Should a reasonable toxicological risk assessment be mandated as a contingent requirement for adding or removing a chemical? Can we base such decisions on hazard assessment alone?

**I think the public should be allowed to petition for a chemical to be removed or added. I am not a policy maker but would suggest a formal process for this to occur. The timeline should reflect the current process of how a chemical is decided upon to be on the list currently (i.e. if it takes 3 months to evaluate/prioritize, then this should be the timeline for all chemicals). The criteria should be exactly the same as those for all the chemicals.**

f) Is there a need to benchmark Registration, Evaluation, Authorization and Restriction of Chemical substances (REACH) see - [http://ec.europa.eu/environment/chemicals/reach/reach\\_intro.htm](http://ec.europa.eu/environment/chemicals/reach/reach_intro.htm) or Restriction of the Use of Certain Hazardous Substances (RoHS (Europe)) see - <http://www.rohs.gov.uk/> or similar regulated chemical listing process as to who can add or remove chemicals from the prioritized list? Specifically is there a need to review current

REACH or/and ROHS chemical criteria and prioritization lists as well as chemicals assessment approach for hazards/risks/exposure to determine if there are any cross-over applicability?

**Yes, this would be a very good idea so as to minimize the repetition of work that goes into prioritizing/selecting chemicals. I am happy to help with this or try to summarize/evaluate different processes in the future.**

g) What should be the process for triggering the modification of the list after comments from the public? How is this one different from e)?

**It should be a similar process. Many of these answers are contingent upon what the selection/prioritization scheme looks like.**

**There may be a need for some separate review from the general selection/prioritization but if this is the case, it must be laid out in very specific terms.**

**Public comments should be taken into consideration to determine if the original scheme had a hole or did not account for some nuance or did not take into account current scientific evidence. . . If this is the case, then the chemical should go back through an evaluatory process.**

h) What should be the frequency for modifying the reporting list?

**Every 12-18 months seems appropriate.**

i) How should the reporting list of chemicals be prioritized? Should the chemicals on this list be prioritized by importance to be phased out/banned? - Should prioritization be based upon a strict toxicity measure of a standard exposure level to a set number of children, and which ones cause the most harmful effects? Or upon which chemicals are the most prevalent among those children are exposed to? Or which toxic chemicals are found at the highest levels in which children's products? Or, which high priority chemicals are found in the most popular children's products?

**A good prioritization scheme will take into account all of these issues. Exposure potential is extremely important – i.e., if a child is not likely to be exposed, the chemical should be low priority. The exposure potential depends on both the concentration of the chemical in the product but also the potential for a child to have exposure to the chemical through oral, dermal, ingestion or inhalation routes.**

**Then, toxicity of the specific chemical is the other major issue. This issue can be addressed with scientific literature. Developmental toxicity is of the utmost importance. Carcinogenic properties are also extremely important to consider. Where there is no literature, the scheme should be protective. For example: if there is a chemical that has zero or very little scientific research examining toxicity, we should err on the side of being protective of children's health. In other words a chemical is not safe until proven otherwise.**

j) Should the sources for identifying high priority chemicals (EU, REACH, California, Canada, et al.) be included in the rule? If not, would it just be included in the final report and available on the DOE website?

**Including the sources seems appropriate to put on the DOE website and not in the rule – there may be other sources that are used in the future.**

k) Should there be some high priority chemicals for which there is no 'de minimis' value, i.e., zero amount can be intentionally added to the production of a children's product? What would be the method to identify what is intentionally added? What about chemicals that are not intentionally added but are present in the product due to manufacturing processes or contamination?

**I think it is sometimes unrealistic to get to a "zero value" but I am not a manufacturer and this opinion is based on their expertise.**

**The issue of chemicals in processes or contamination is very difficult. I do not think these chemicals should slip through any regulatory loopholes. Manufacturers have a responsibility to know what is in their products and should be held responsible for this information.**

l) How should Ecology/DOH weight the value of the REACH list compared to Canada or California's lists in coming up with our own list?

**It may be that the lists are very similar. The weighting should be based on what criteria they used to come up with their lists. If they have algorithms/weighting schemes, these should be examined.**

m) What do we mean by "children's products?" Should we more precisely/carefully/narrowly? define the universe of children's products to be covered by reporting? It would be good to make sure we are all talking about the same products. Are there some products that we are missing? See California's draft cosmetics reporting form to get an idea of

how they have defined the universe of cosmetics products.

<http://www.cdph.ca.gov/programs/cosmetics/Pages/faq.aspx>

**Any product intended for a child under the age of 18– this does include cosmetics.**

n) Should reporting be limited to chemicals known to be used in manufacturing or should it also include chemicals known or likely to be present due to common contamination?

**Both**

## **2) Issues associated with the reporting process**

a) How should confidential business information be reasonably treated?

**I am not an expert in this area, but I do think businesses should release information to protect the public from potentially harmful exposures.**

b) What should be the timeline for reporting? (who should have to report on what, when?) Should there be a phased-in approach? If so, what should it be based on? How would it work? Which companies, for which materials or substances should be required to report first?

c) What information and format must a report contain? Is there any reason to allow submittal of hard copy, rather than electronic, data?

**The timeline should be kept short – 12 months or so. If there is to be a phase in approach, it should first account for the highest priority chemicals and then work down through lower priority chemicals.**

**The report should contain information on the chemical, how it is used in the product, the concentration of the chemical in the product, its ability to leach out of the product, and any other relevant information the company has on the chemical.**

d) Should there be a standardized mechanism for reporting (i.e. companies are required to fill out a standardized form for each chemical etc.)? This may help minimize time trying to translate information to the public.

**Yes**

e) What should be done with the information reported to Ecology? Options range from releasing information upon request to actively

putting it in the public eye – i.e. post it on a website, do press releases, etc.. Should the way the information will be handled be in the rule? Should information be provided in a manner that clearly communicates exposure risk or the lack thereof? Should these options be in the rule?

**Yes, I think this handling of information should be in the rule. I think it should be made available to the public in an easily accessible format (website and libraries for those who do not have internet access).**

**I think the priority list should be shown as well as a link to how it was created and what criteria were used.**

**For each chemical, there should be a short summary of current research/potential health hazards.**

- f) How can a chemical or material manufacturer determine if their product has a chemical from the reporting list? - Testing, Self-certification or Self-declaration of conformity, documented oversight process to ensure none of the chemicals are used at any point in the production process, etc.. If we allow something other than testing results to be submitted, what information must be included in the report?

**I do not have the expertise to comment on this.**

- g) Is there a need to benchmark Registration, Evaluation, Authorization and Restriction of Chemical substances (REACH) see - [http://ec.europa.eu/environment/chemicals/reach/reach\\_intro.htm](http://ec.europa.eu/environment/chemicals/reach/reach_intro.htm) or Restriction of the Use of Certain Hazardous Substances (RoHS (Europe)) see - <http://www.rohs.gov.uk/> or similar regulated reporting process? If we allow something other than testing results to be submitted, what information must be included in the report? Specifically is there a need to review current REACH or/and ROHS reporting process to determine if there are any cross-over applicability?

**This is a repeat of a question above?**

- g) How should Ecology summarize and analyze reported data that is submitted by manufacturers? Should information be analyzed by products or types of products? Should this work feed into revising the reporting list?

**It would be good to minimize the work on the DOE end by standardizing the reporting of data. I am not quite sure what this question is asking.**

### **3) Issues associated with enforcement of the CSPA**

a) How should the reporting requirements established by the rule be enforced?

**Because I am not a policy person, I am not sure or the best way to approach this but some kind of penalty if companies do not meet reporting requirements seems appropriate.**

b) What should trigger a penalty? Should the agency provide notice and opportunity to comment prior to issuing a penalty?

**Again, not my area of expertise.**

c) Should the media be informed?

**I do not see a reason that the media should be informed unless it is deemed that the company is causing purposeful or undue harm by not meeting requirements (i.e. not meeting a deadline does not seem like intent to harm. . .)**