



DEPARTMENT OF
ECOLOGY
State of Washington

Rule Implementation Plan

Children's safe products

Chapter 173-334 WAC

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Ecology publishes this document to meet the requirements of the Washington State Administrative Procedure Act (RCW 34.05.325)

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Purpose

Ecology provides the information in this implementation plan to meet agency and Administrative Procedure Act (RCW 34.05.328) requirements related to rule adoptions.

Introduction

The purpose of this rule implementation plan is to inform those who must comply Chapter 173-334-WAC – Children’s Safe Products Reporting Rule about how the Department of Ecology (Ecology) intends to:

- Implement and enforce the rule.
- Inform and educate persons affected by the rule.
- Promote and assist voluntary compliance for the rule.
- Evaluate the rule.
- Train and inform Ecology staff about the new or amended rule.

Also included in this plan is information about:

- Supporting documents that may need to be written or revised because of the new rule or amended rule.
- Other resources where more information about the rule is available.
- Contact information for Ecology employees who can answer questions about the rule implementation.

Implementation and Enforcement

This rule establishes reporting requirements for manufacturers of children’s products. Manufacturers must report whether certain chemicals are intentionally added to, or occur as contaminants in, children’s products that are sold in Washington State.

The first deadline for reporting will occur in August 2012. Ecology will make a web-based reporting database available in advance of the due date for the first reports. Ecology will analyze the submitted data to develop an enforcement strategy for ensuring that reports are received from all manufacturers of children’s products.

As resources allow, Ecology will purchase products from various retailers, and submit them for laboratory analysis for chemicals on the list of Chemicals of High Concern to Children (CHCCs). Where possible, X-Ray Fluorescence (XRF) screening will be used to detect metals and certain other compounds on the CHCC list. The choice of which products to test will be informed by data reported by others in the same sector, as well as complaints submitted to Ecology.

The agency will compare the values obtained during laboratory analysis to the values reported by manufacturers. If there is a discrepancy the responsible party will be contacted and given 45 days to provide additional information. If the additional information provides an adequate justification for why there is a discrepancy, no further action will be taken by Ecology. If the submitted information is inadequate to explain the discrepancy, a formal enforcement action will be initiated. Failure to respond to the initial notice will automatically result in a formal enforcement action.

Informing and Educating Persons Affected by the Rule

Ecology has used multiple methods to solicit input from stakeholders which could be impacted by the rule. These include:

- The formation of an advisory group.
- Conducting a pilot rule process.
- Press releases.
- Listservs, including a Children's Safe Products listserv and WAC Track.
- Direct contact by phone or email.
- Asking testing labs to inform their clients.
- Encouraging trade organizations to get their members involved.

Through this outreach the agency has developed a large list of contacts for affected and interested parties. We will announce the adoption of the rule by sending a message to the Children's Safe Products and WAC Track listservs. The agency will also continue its outreach to affected businesses through trade organizations, and will send out notices to the following trade associations when the rule is adopted:

- Association of Washington Businesses (AWB)
- American Apparel & Footwear Association (AAFA)
- Juvenile Products Manufacturing Association (JPMA)
- Personal Care Products Council (PCPC)
- Washington Retail Association (WRA)

Promoting and Assisting Voluntary Compliance

The agency has developed several guidance documents to assist manufacturers in implementing the reporting requirements. These guidance documents include:

- *Product categories*: The rule requires reporting by product category. The purpose of this guidance to clarify what is meant by the term "product category" in the context of the rule. The definition of "children's product" established in the law and rule, in combination with an existing product categorization system, will be used to establish the products that are subject to reporting.
- *Product components*: The rule requires reporting by product component. The purpose of this guidance to clarify what is meant by the term "product component" in the context of the rule.
- *Due diligence*: The purpose of this guidance is to provide clarification on what Ecology will look for in the event that the agency must evaluate the sufficiency of manufacturer efforts to minimize the presence of contaminants in their products (WAC 173-334-080(1)(c)).
- *Practical Quantification Limit (PQL)*: This guidance is provided to indicate projected practical quantification limits (PQLs) for products.

Evaluating the Rule

The purpose of this rule is to implement the reporting requirements established by the law. If responsible parties report the presence of chemicals of concern in their products, the purpose of the rule will be met. Ecology could evaluate this by comparing the number of companies that report to the number of companies known to sell children's products in a given reporting tier.

In addition, Ecology has allowed manufacturers to choose not to report contaminants if they maintain manufacturing control programs and exercise due diligence to keep the concentration of the contaminant as low as possible. Ecology will evaluate the success of this provision of the rule by assessing the quality of programs that manufacturers submit.

The rule also allows companies to delay the implementation of the reporting requirement if they conduct an alternative assessment on a chemical on the CHCC list. Ecology will evaluate the success of this provision by assessing the number and quality of alternative assessments submitted.

Training and Informing Ecology Staff

Ecology staff that developed the rule will carry out its implementation. No specific additional training on this rule will be required for other staff.

List of Supporting Documents that May Need to be Written or Revised

This is a new rule. No supporting documents will need to be revised. Guidance documents (described above) have been drafted.

More Information

Please visit the program web pages for additional information, and specific guidance documents.

<http://www.ecy.wa.gov/programs/swfa/cspa/>

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