Vermont Seeks to Amend its Chemical Disclosure Program

Thursday, January 11, 2018

The Vermont Department of Health (VDH) has proposed revisions to its rules under the state’s Chemical Disclosure Program. Crucially, the rule would offer relief to manufacturers by replacing the current annual reporting requirement with a two-year window.

The Toxic Substances in Children's Products Rule took effect on December 10, 2015, and follows from the state's 2014 green chemistry bill, VT S. 239. Under the Rule, companies selling children's products in Vermont must disclose the presence of any of 66 chemicals:

- as a contaminant, at 100 ppm or more; or
- as an intentionally added chemical, over the chemical's practical quantification limit (PQL).

The Rule's reporting obligations affect companies that sell children's products in the state, but unlike other green chemistry laws in states like Washington, require individual product-level reports. In 2016, amendments to the Rule were made that changed the reporting requirements from July 1, 2016, and biennially thereafter to a first reporting on January 1, 2017, and second reporting on August 31, 2018, and biennially thereafter. Vermont also launched an online reporting system to allow manufacturers to report chemical disclosures online, and issued an updated Guidance for Manufacturers: Chemical Disclosure Program.

Under the proposed amendments, the rule would:

- Require submission of universal product codes (UPCs), codifying guidance from VDH on reporting and maintaining a SKU-level reporting obligation;
- Set a two-year retrospective reporting program, with reports due August 31, 2018, for products sold from January 1, 2017, to the reporting date; and then on August 31, 2020, for products sold from September 1, 2018, to the reporting date; and permit (but not require) more frequent updates;
- Add twenty chemicals to the list of chemicals of high concern to children (CHCCs), bringing the total to 86 (including Bisphenol S and F; diisobutyl phthalate (DIBP) and other phthalates; short-chain chlorinated paraffins; lead (of course already subject to regulation at the federal level); and other chemicals);
- Delete one chemical (this deletion is confusing, as the chemical is not present in the current regulation (tris(4-tert-butylphenyl) phosphate/butylated triphenyl phosphate));
- Permit notices of removal of chemicals;
- Set procedures for adding chemicals to and removing chemicals from the list of CHCCs; and
- Set procedures for adopting rules to regulate the sale or distribution of children's products containing CHCCs, including prohibitions of sale, but only after receipt of a recommendation from the CHCC Working Group.

The VDH is holding a public workshop to discuss proposed amendments to the Chemicals of High Concern in Children's Products rule, available here. The workshop will be held on January 22, 2018, from 8:30 a.m. to 10:00 a.m. at the Department of Health, 108 Cherry Street, Burlington, Vermont, Conference Room 2B (2nd floor). Participants may call in to 1-877-273-4202 (PIN 2403926#).