

Environmental and Land Development ADVISORY

August 12, 2010

OEHHA Announces Public Workshop of Pre-Regulatory Draft Regulations to Expand List of Chemicals and Hazard Traits to Be Considered Under DTSC's Draft Safer Products Regulations

The California Office of Environmental Health Hazard Assessment ([OEHHA](#)) has [announced](#) a public workshop to be held on August 23, 2010, at the California EPA headquarters in Sacramento. The public workshop will discuss a pre-regulatory [draft](#) regulation entitled "Green Chemistry Hazard Traits, Endpoints, and Other Relevant Data" for hazard traits and environmental and toxicological endpoints.

The regulations look to hit on four points:

1. identify and define the hazard traits;
2. list general categories of endpoints and other relevant data for each toxicological and environmental hazard trait;
3. provide methods for determining whether a chemical has a toxicological hazard trait; and
4. provide methods for determining carcinogenicity, developmental toxicity or reproductive toxicity hazard traits of a chemical.

The draft regulations define hazardous traits as properties of chemicals that fall into broad categories of toxicity, adverse environmental effects, physical hazards or exposure potential characteristics. The regulations break hazardous traits down into the following groups: toxicological (human health) hazards, environmental hazards, exposure potential hazards and physical hazards. Each of these categories has a number of subcategories.

The regulations subsequently discuss sources and methodologies for identifying toxicological and environmental hazard traits, and break down the difference between Class One and Class Two hazardous traits. A Class One chemical is defined as "having a specific hazard trait when there is a strong body of evidence indicating that the chemical substance has the specific toxicological hazard trait. Methods for identifying chemicals as having a Class One hazard trait can be found in subsection 4(a)"; a Class Two chemical is defined as "having a hazard trait when there is a lesser body of evidence than for a specific Class One identification. Methods for identifying chemicals as having a Class Two hazard trait can be found in subsection 4(b)."

This advisory is published by Alston & Bird LLP to provide a summary of significant developments to our clients and friends. It is intended to be informational and does not constitute legal advice regarding any specific situation. This material may also be considered attorney advertising under court rules of certain jurisdictions.

The draft regulations go on to define toxicological endpoints as “those measured or otherwise observed adverse effects in biological systems that may indicate the presence of one or more hazard traits.”

The draft regulation is open for public comment until September 13, 2010. For more information on OEHHA’s work on green chemistry visit: <http://www.oehha.ca.gov/multimedia/green/index.html>.

These regulations, if approved, would coordinate with current work being done by the California Department of Toxic Substances Control ([DTSC](#)), greatly expanding the list of chemicals those regulations would govern. In June, DTSC released a draft [regulation](#) for safer consumer products, which we previously [blogged](#) about on Alston & Bird’s Environmental & Land Development blog.

If you would like to receive future *Environmental Advisories* electronically, please forward your contact information including e-mail address to environmental.advisory@alston.com. Be sure to put “**subscribe**” in the subject line.

If you have any questions or would like additional information please contact your Alston & Bird attorney or any of the following:

Ward L. Benshoof
ward.benshoof@alston.com
213.576.1108

Meaghan Goodwin Boyd
meaghan.boyd@alston.com
404.881.7245

Lee A. DeHihns, III
lee.dehnhns@alston.com
404.881.7151

Maureen F. Gorsen
maureen.gorsen@alston.com
916.498.3305

Megan K. Hey
megan.hey@alston.com
213.576.1043

Orlyn (Skip) O. Lockard, III
skip.lockard@alston.com
404.881.7126

Peter E. Masaitis, Partner
peter.masaitis@alston.com
213.576.1094

Peter A. Nyquist
pete.nyquist@alston.com
213.576.1142

Catherine Mitchell Wieman
catherine.wieman@alston.com
213.576.1044

C. Max Zygmunt
max.zygmunt@alston.com
404.881.4795

ATLANTA

One Atlantic Center
1201 West Peachtree Street
Atlanta, GA 30309-3424
404.881.7000

CHARLOTTE

Bank of America Plaza
Suite 4000
101 South Tryon Street
Charlotte, NC 28280-4000
704.444.1000

DALLAS

Chase Tower
Suite 3601
2200 Ross Avenue
Dallas TX 75201
214.922.3400

LOS ANGELES

333 South Hope Street
16th Floor
Los Angeles, CA 90071-3004
213.576.1000

NEW YORK

90 Park Avenue
New York, NY 10016-1387
212.210.9400

RESEARCH TRIANGLE

Suite 600
3201 Beechleaf Court
Raleigh, NC 27604-1062
919.862.2200

SILICON VALLEY

275 Middlefield Road
Suite 150
Menlo Park, CA 94025-4004
650.838.2000

VENTURA COUNTY

Suite 215
2801 Townsgate Road
Westlake Village, CA 91361
805.497.9474

WASHINGTON, D.C.

The Atlantic Building
950 F Street, NW
Washington, DC 20004-1404
202.756.3300

www.alston.com

© Alston & Bird LLP 2010