

- ⇒ Providing comprehensive communications services of and participating in meetings held by the Department of Toxic Substances Control (DTSC) and other regulatory agencies involved in developing and implementing Green Chemistry policies in California.
- ⇒ Identifying opportunities and potential impacts for specific industries, chemicals or products under review.
- ⇒ Providing strategic counsel, outreach and support during ongoing legislative attempts to ban specific chemicals.
- ⇒ Engaging regulatory and legislative officials on key policy decisions and administrative implementation, particularly as those officials transition over time.
- ⇒ Monitoring daily activities of and participating in meetings held by the Department of Toxic Substances Control (DTSC) and other regulatory agencies involved in developing and implementing Green Chemistry policies in California.
- ⇒ Identifying opportunities and potential impacts for specific industries, chemicals or products under review.
- ⇒ Providing strategic counsel, outreach and support during ongoing legislative attempts to ban specific chemicals.

# CALIFORNIA'S GREEN CHEMISTRY INITIATIVE



KP Public Affairs has the expertise and relationships in the regulatory and legislative arenas to keep your company ahead of the Green Chemistry initiatives that are now taking shape in California. By engaging in the latest Green Chemistry developments, KP can provide you with an extended resource of invaluable, up-to-date information, strategic regulatory and legislative counsel and public relations support.

*KP Public Affairs is the largest full service lobbying and communications firm in California. KP offers all the essential elements for developing a winning public affairs strategy: policy-oriented advocacy, comprehensive public relations, knowledge-based analysis, broad expertise, experienced professionals, and the respect that is earned with a long history of success.*

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## Summary of 2008 Legislative Package on Green Chemistry *AB 1879 (Feuer) and SB 509 (Simitian)*

In recent years, California's chemical policy has been characterized mostly by a patchwork of chemical-by-chemical ban legislation driven by media attention and often lacking the scientific foundation that would justify chemical use restrictions or outright bans. AB 1879 (Feuer) and SB 509 (Simitian), the Green Chemistry bill package approved by the Legislature in August and signed by the Governor in September 2008, attempt to provide an alternative to the status quo by creating a regulatory process through which chemicals used in consumer products can be evaluated and managed in a manner that leads to meaningful improvements in public health and environmental protection.

AB 1879 authorizes the Department of Toxic Substance Control (DTSC) to adopt regulations, by January 2011, establishing a process by which chemicals, or chemical ingredients, in products may be identified and prioritized for consideration as being chemicals of concern. DTSC must prioritize chemicals of concern based on volume in commerce in California, exposure, and hazard/toxicity. DTSC must then evaluate priority chemicals and potential alternatives using specified criteria intended to characterize the life-cycle costs and benefits of each option. DTSC must also evaluate potential multimedia impacts, including impacts to air, water, or soil that may result from the production, use, or disposal of a consumer product or consumer product ingredient. Based on this analysis, DTSC may take a range of actions, from doing nothing to adopting use restrictions or prohibitions, with the caveat that DTSC's actions cannot be duplicative of, or conflict with, current or pending regulations. A limited set of product categories, such as pesticides and food, are exempt from this process.

**DTSC may take a range of actions, from doing nothing to adopting use restrictions or prohibitions.**

The bill also requires review of DTSC's multimedia life-cycle analysis and proposed regulations by the Environmental Policy Council (EPC), made up of the heads of each board, department and office of the California Environmental Protection Agency, to ensure that the proposed regulations will not cause a significant adverse impact on public health or the environment. If the EPC finds the proposed regulations will cause a significant adverse impact,

**DTSC must prioritize chemicals of concern based on volume in commerce in California, exposure, and hazard/toxicity.**

they must recommend alternative measures to DTSC, and DTSC must adopt changes to the proposed regulation to mitigate any such impacts.

AB 1879 establishes a Green Ribbon Science Panel to advise DTSC on scientific matters, chemical policy recommendations and implementation strategies, as well as to ensure implementation efforts are based on a strong scientific foundation.

AB 1879 establishes a process, modeled on state air toxics laws, to protect information submitted to the department that is claimed to be "trade secret" by the manufacturer from public disclosure. SB 509 specifically excludes "hazard trait" data for chemical ingredients from this provision. If DTSC receives a request for information claimed as trade secret, it must determine whether the information should be released to the public. This process also allows the manufacturer to seek a court injunction to prevent the release of trade secret information.

SB 509 requires DTSC to create a Toxics Information Clearinghouse for the collection, maintenance, and distribution of specific chemical hazard traits and environmental and toxicological end-point data which must be accessible through the internet. The Office of Health Hazard Assessment (OEHHA) is required, by January 1, 2011, to evaluate and specify the hazard traits, environmental and toxicological end-points and any other relevant data that are to be included in the clearinghouse.

Both bills require the department to reference and use, to the maximum extent feasible, available information from other nations, governments, and authoritative bodies that have undertaken similar chemical prioritization processes, so as to leverage the work and costs already incurred by those entities and to minimize costs and maximize benefits for the state's economy.

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# GREEN CHEMISTRY TIMELINE

**February 2005:**  
AB 289 (Chan) introduced, which would authorize a state agency to request from manufacturers or importers of chemicals, information necessary for detecting the chemical's presence in the environment.

**March 2005:**  
SB 484 (Migden) introduced, which would require disclosure of chemical ingredients in cosmetics.

**October 2005:**  
SB 484 signed by Governor Schwarzenegger.

**September 2006:**  
AB 289 signed by Governor Schwarzenegger.

**October 2006:**  
DTSC holds Green Chemistry Symposium.

**February 2007:**  
SB 509 (Simitian) introduced, which would require disclosure of virtually all ingredients in consumer products.

**February 2007:**  
AB 514 (Lieber) introduced, which would ban use of butter flavoring additive diacetyl.

**February 2007:**  
AB 513 (Lieber) introduced, which would ban flame retardant DecaBDE at a level higher than 1/10 of 1%.

**February 2007:**  
AB 706 (Leno) introduced, which would ban the use of brominated fire retardants or chlorinated fire retardants in seating, bedding, and furniture products.

**February 2007:**  
AB 1108 (Ma) introduced, prohibiting phthalates in products intended for children under 3.

**April 2007:**  
Green Chemistry Initiative announced by Cal/EPA Secretary Linda Adams.

**June 2007:**  
Cal/EPA initiates inter-agency workgroups.

**June-December 2007:**  
Workshops, symposia, and stakeholder meetings held, comments collected via blog and mail.

# DTSC GREEN CHEMISTRY PROCESS

## SCIENTIFIC PEER REVIEW – GREEN RIBBON SCIENCE ADVISORY PANEL

- Chemistry
- Chemical engineering
- Environmental law
- Toxicology
- Public policy
- Pollution prevention
- Cleaner production methods
- Environmental health
- Public health
- Risk analysis
- Materials science
- Nanotechnology
- Chemical synthesis
- Research
- Maternal and child health

**1. CHEMICALS OF CONCERN IN CONSUMER PRODUCTS – IDENTIFICATION AND PRIORITIZATION**

- Volume in California commerce
- Exposure
- Hazard/toxicity

**2. ANALYSIS OF CHEMICALS OF CONCERN AND POTENTIAL ALTERNATIVES**

- Product function
- Useful life
- Materials & resource consumption
- Water conservation
- Water quality impacts
- Air emissions
- Production, in-use & transportation energy inputs
- Energy efficiency
- GHG emissions
- Waste & disposal
- Public health, environmental & economic impacts

**3. PROPOSED REGULATIONS - OPTIONS**

- No action
- Additional analysis
- Labeling/consumer information
- Use restrictions
- Management measures to reduce exposure
- End of life management
- Green Chemistry challenge grants

**4. MULTI-MEDIA LIFE-CYCLE EVALUATION OF PROPOSED REGULATIONS**

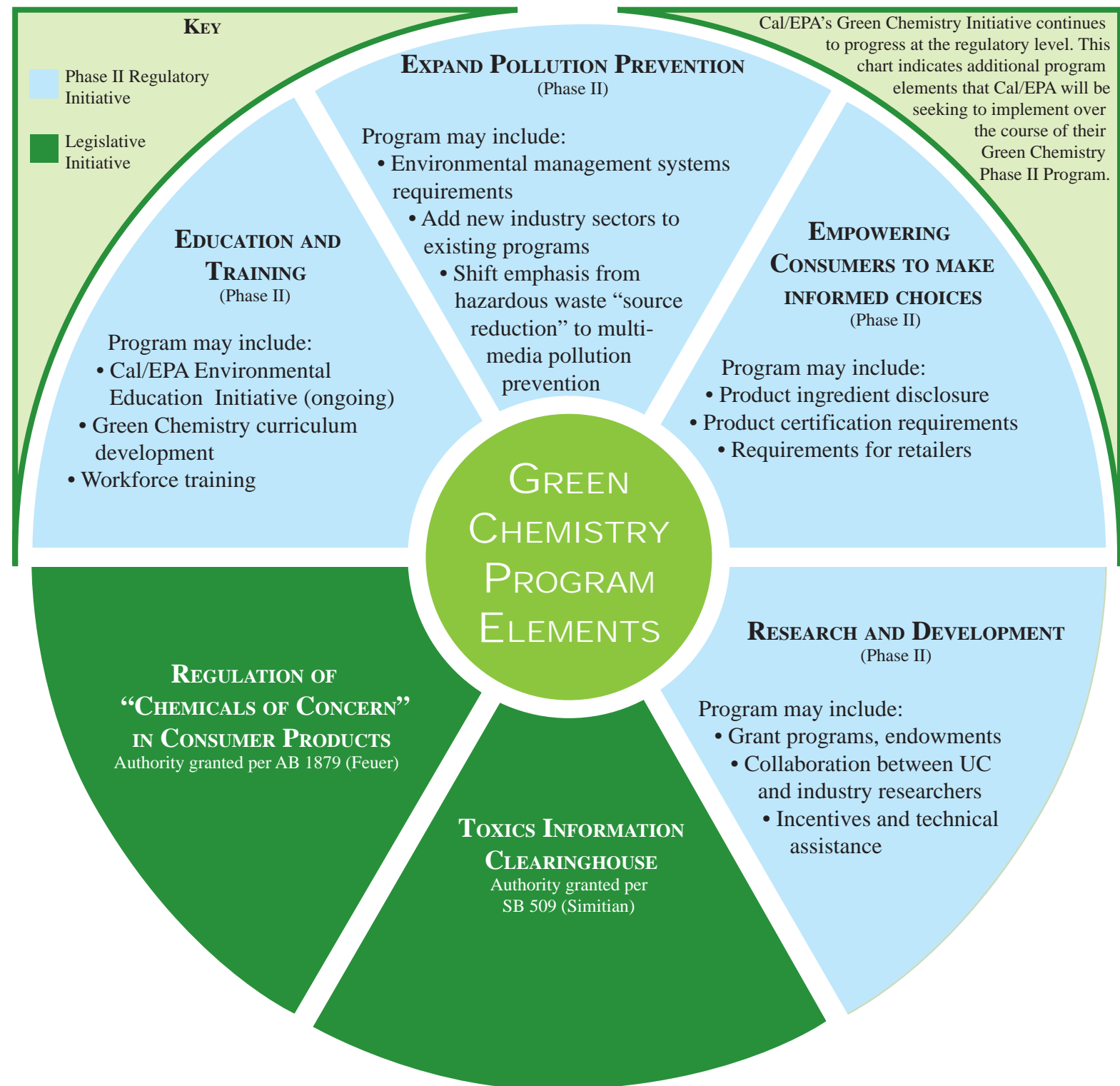
- Emissions of air pollutants, including criteria, toxics and greenhouse gasses
- Contamination of surface water, groundwater and soil
- Disposal or use of byproducts and waste materials
- Worker safety and impacts to public health
- Other anticipated impacts to the environment

**5. REVIEW OF PROPOSED REGULATIONS BY ENVIRONMENTAL POLICY COUNCIL**

- EPC includes heads of Cal/EPA Boards, Departments and Offices
- Additional state agency consultation requirements
- Revise regulations to mitigate any significant adverse impacts

## TOXICS INFORMATION CLEARINGHOUSE

- OEHHA specifies chemical hazard trait and toxicological endpoint data
- Web-accessible
- Consultation and data sharing with other states, federal government and other nations



"KP has been an active participant in the Cal/EPA Green Chemistry Initiative process that helped transform the legislation from an outright indictment of specific chemicals to a more objective, science-based process for identifying, evaluating and, where necessary, regulating chemicals of concern. Despite the progress reflected in the legislation, the program elements are loosely defined and constitute a broad grant of authority, analogous to AB 32, California's landmark greenhouse gas emissions program. As with AB 32, the regulated community will face major hurdles as it works with Cal/EPA to develop a functional regulatory program."

- Jeff Sickenger,  
KP's Green Chemistry Practice Co-Leader

**October 2007:**  
AB 1108 signed by Governor Schwarzenegger.

**December 2007:**  
Cal/EPA's Green Chemistry Phase I Initiative Report released.

**February 2008:**  
SB 1313 (Corbett) introduced, which would prohibit the use of perfluorooctane sulfonate acid (PFOS), perfluorooctanoic (PFOA), used in non-stick food packaging applications in concentrations exceeding 0.1%.

**February 2008:**  
SB 1713 (Migden) introduced, which would prohibit the use of bisphenol A (BPA) in any bottle, cup, or other container at a level above 0.1 parts per billion (ppb), for specified uses.

**February 2008:**  
AB 1879 (Feuer) introduced, which would authorize DTSC to regulate specified "chemicals of concern" in consumer products.

**January 2008:**  
AB 513 fails in the Assembly. AB 514 fails in the Senate.

**May 2008:**  
Green Chemistry Scientific Advisory Panel Report released.

**August, 2008:**  
AB 706 fails in the Senate. SB 1713 fails in the Assembly.

**September 2008:**  
SB 1313 vetoed by Governor Schwarzenegger.

**September 2008:**  
AB 1879 (Feuer) and SB 509 (Simitian), California's Green Chemistry bill package, signed by Governor Schwarzenegger.

**January 1, 2011:**  
Deadline for DTSC to adopt regulations to establish a process by which chemicals of concern in products are identified, prioritized, reviewed and if necessary, regulated.

**January 1, 2011:**  
Deadline for DTSC to establish a Toxics Information Clearinghouse for collection, maintenance, and distribution of chemical hazard trait information.

**January 1, 2011:**  
Deadline for OEHHA to evaluate and specify the hazard traits and environmental and toxicological end-points to be included in Toxics Clearinghouse.

**December 31, 2011:**  
Exemption for collection and recycling of mercury-containing lights in SB 509 sunsets.