

TSCA and Chemical Policy in Minnesota

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Chemicals in Products Interagency Team

**Minnesota
Department
of Health
(MDH)**

**Minnesota
Pollution
Control
Agency
(MPCA)**

**Minnesota
Department
of
Commerce**

The Chemicals in Products
Interagency Team aims to reduce
the amount of chemical hazards in
products, their dispersion into
Minnesota's environment, and their
presence in the bodies of Minnesota
citizens, especially our most
vulnerable communities.

We work in partnership to:

1. Monitor chemical hazards in consumer and business-to-business products and the environment;
2. Educate citizens, vulnerable communities, and businesses about chemical hazards and how to avoid them; and
3. Accelerate the development and use of safer alternatives by businesses, state government, and citizens, while enhancing Minnesota business growth.



Using a health equity and environmental justice lens



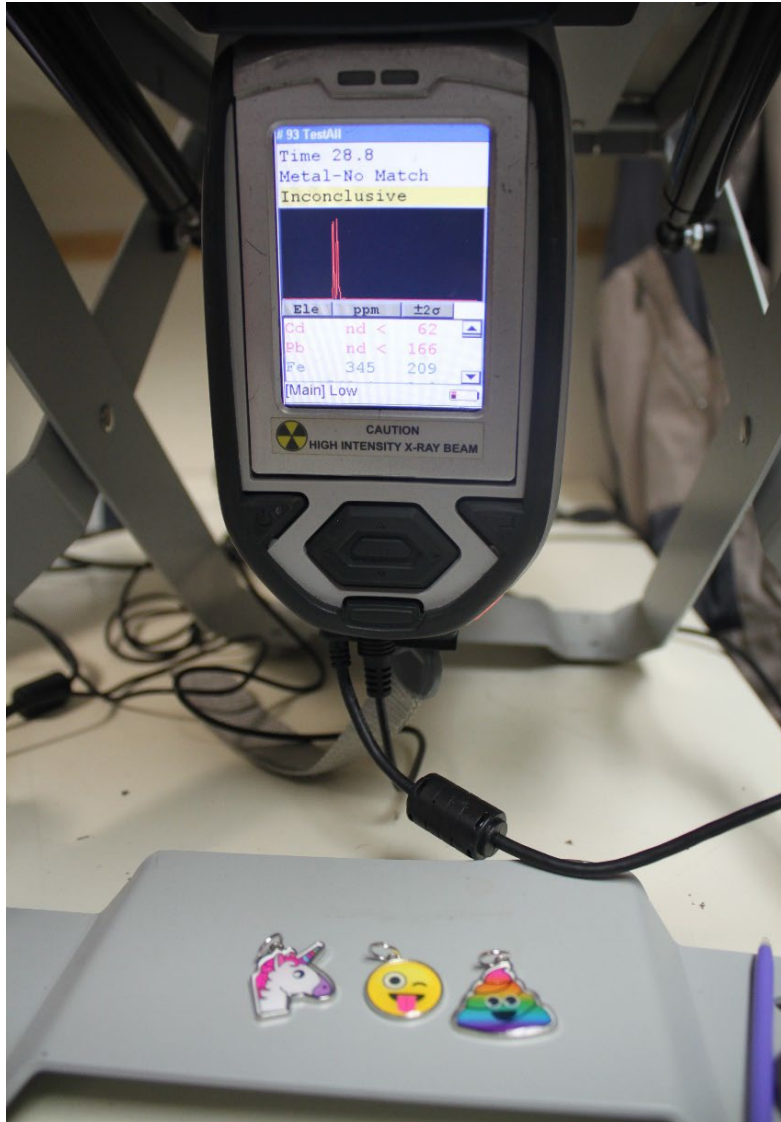
Current CPIT Projects

Checking kid's products for phthalates, used to make plastics flexible

Mercury-containing skin lightening products

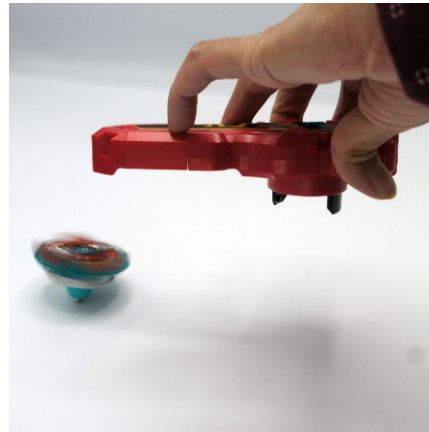
Exploring development of a community- or high school-focused project on identifying and replacing toxics in common products

Projects and Results: Lead and cadmium in children's jewelry and toys



89 jewelry products tested 2017
4 investigated; 3 recalled (10 units)
[consumer notice](#)

118 jewelry products tested 2018
10 investigated; 3 recalled (~5300 units)
1 of these was nationwide, via CPSC



50 Beyblades-style toys tested 2019
15 investigated; 15 recalled (2200+ units)
[consumer notice](#)

How does MDH use TSCA Data in Chemical Reviews?

- Minnesota's Contaminants of Emerging Concern (CEC) program created in late 2000's to anticipate potential threats to drinking water
- Gathers input from agencies, the public and our Drinking Water Program
- Little overlap between MDH's chemical prioritization process and TSCA's chemicals of interest
- CBI concerns have limited the use of TSCA data in our chemical review work
- EPA's Computational Tox and Exposure groups TSCA-related work has been useful in prioritizing chemicals for which we have little data

2020 Minnesota TCE Legislation

- Follows Water Gremlin enforcement case in White Bear Twp. in 2019
 - Facility emitted nearly *120 tons* of TCE in a residential neighborhood in 2018
- Bans most uses of TCE after July 1, 2022
- Alternatives must be “less toxic”
- Exemptions for closed systems, R&D facilities
- Loans to assist small businesses as they switch away from TCE
 - \$250,000 available

How is the TCE Legislation being Implemented?

- Letters to all facilities with Air Permits to understand current TCE use and inform them of stop dates
- Inspections and enforcement agreements at facilities with known or suspected TCE use from 2015-present
- Modeling current and past TCE exposures at priority facilities
- Public outreach – info sheets, web site
- Facility education and loans with support from MnTAP

Coordination with other states – Interstate Chemicals Clearinghouse (theIC2.org)



The screenshot shows the homepage of the Interstate Chemicals Clearinghouse (IC2). At the top left is the IC2 logo with the text "INTERSTATE CHEMICALS CLEARINGHOUSE". To the right, it says "ENHANCED BY Google". Below the header is a large landscape photograph of a lake reflecting mountains. Underneath the photo are three featured articles, each with a small image, a title, a short description, and a "Read more" link. The first article is titled "State Chemicals Policy" and features a photo of a meeting. The second is "High Priority Chemicals Data System" with a photo of children playing with toys. The third is "Chemical Hazard Assessments" with a photo of a scientist in a lab. At the bottom of the page, there is a "Welcome to the Interstate Chemicals Clearinghouse (IC2)" section with a brief description of the organization's mission.

State Chemicals Policy
The State Chemicals Policy Database is a searchable database of passed and pending state-level chemicals legislation. Users can search the...
[Read more](#)

High Priority Chemicals Data System
HPCDS is an online platform that supports reporting of information on the presence of chemicals of concern in children's products...
[Read more](#)

Chemical Hazard Assessments
The Chemical Hazard Assessment Database enables users to search for GreenScreen® and Quick Chemical Assessment Tool (QCAT) assessments. The purp...
[Read more](#)

Welcome to the Interstate Chemicals Clearinghouse (IC2)
The Interstate Chemicals Clearinghouse (IC2) is an association of state, local, and tribal governments that promotes a clean environment, healthy communities, and a vital economy through the and use of safer chemicals and products.

- Established in 2010 – state, local and tribal governments plus supporting members
- State Chemicals Policy Database
- Alternatives Assessment Guidance
- Chemical Hazard Assessments database
- High Priority Chemicals Data System
- Chemical Transparency Principles

MN State agencies and TSCA

Background on MN relationship to TSCA

- MN focuses primarily on products vs. TSCA's chemical production & use
- TSCA's "existing chemicals", by situation – little on TSCA "new chemicals"
- Insufficient resources to cover State priorities and TSCA breadth, complexity
- Main focus points:
 - Boundaries of TSCA's preemption of State policy
 - Confidential business information (CBI)
 - Comments on EPA actions or policies of greatest interest to Minnesota

TSCA Confidential Business Information (CBI)

New opportunity for States and Tribes to access TSCA CBI

We have some experience encountering CBI (existing chemicals)

- Chemical Data Reporting (CDR)
- Chemical Inventory

Little experience (new chemicals)

- Pre-Manufacture Notices (PMNs)
- Significant New Use Rule notices (SNUNs)
- Safety studies

What is TSCA CBI?

- Specific chemical names
- Chemical Abstract Service (CAS) numbers
- Values for amounts manufactured or used
- Many other data points

What does EPA receive that we can't see? Not clear

- Where we see a generic chemical name, does EPA get a specific name or CAS?
- When we see volumes withheld, does EPA get a range of values manufactured or used, or a specific number?

So what exactly is it and what do we ask for?

- To answer this fully, we would have to gain access to CBI

Administrative Process and Challenges

Step 1: Establish equivalency (with EPA's) of our authority and capacity to protect CBI

Step 2: Make requests

Main foundational challenges

- EPA guidance references their own detailed protection practices
- EPA would have to approve MN/MPCA's current statute, rule, policy, and procedures
- We would need additional new procedures (\$); assigned to named staff

Other technical challenges

- Could we receive/maintain CBI electronically?
- If electronic, would MN IT (a separate agency) have to go through the Step 1 process as well?
- Is cloud storage secure enough?
- Maintain for 10 years as EPA does?
- How do we track with EPA renewals or changes of designation?
- How to dispose?

Constraints – Real or Perceived

- Scope of requests: Wide (e.g., PFASs across CDR) - or narrower?
- We would act alone, unless key partners (MDH, other states) also reached agreement with EPA
- How do we use CBI as the basis for regulatory action without disclosing?
 - E.g., standard setting, special monitoring plan, permit limit or monitoring requirement
 - If we conduct or require monitoring based on CBI, can we reveal the data which results?
- What if we identify a compound totally independently so want to go public, but might have received CBI which tells us the same thing?
 - Could we be sued for disclosing CBI, even if we hadn't used it? Would this chill our process?
- We drafted a Step 1 application, but uncertainties/other priorities have shelved it

Comment letters on EPA Risk Evaluations

MPCA and MDH have collaborated to comment on TSCA implementation issues

- Selective: can't comment on everything for which comments are requested; tend to choose topics which are relevant to our work in Minnesota
- Degree of detail in comment letters varies considerably based on staff resources and potential impact to agency programs
 - Important for states to comment even if brief or high-level; comments demonstrate the breadth and depth of concern on an issue, which is important, especially when there are lawsuits
- Often collaborate or share general thoughts with other groups considering writing comment letters, such as via IC2, ECOS, ACWA, ASDWA, attorneys general
- Commenting on SNURs/PMNs may be effective, but has been beyond our capacity
- Overall goal is to help craft a TSCA that is effective and reduces the burden on states

Recent comments

2018-05-29	Proposed rule, Strengthening Transparency in Regulatory Science, published 4-30-2018 at 83 FR 18768
2018 – 08-16	Problem Formulations for the Risk Evaluations to be Considered under TSCA, and General Guiding Principles to Apply Systematic Review in TSCA Risk Evaluations
2019- 08-26	Draft Risk Evaluation for 1,4-dioxane, CASRN: 123-91-1
2020- 01-30	TRI: Addition of Certain Per- and Polyfluoroalkyl Substances; Community Right-to-know Toxic Chemical Release Reporting
2020-07-06	Draft Risk Evaluation for Perchloroethylene, CASRN: 127-18-4