

It's Not Easy Being Green: Walmart Puts Suppliers on Notice

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In response to growing consumer demand for sustainable products that minimize harmful impacts on human health and the environment, Walmart in September 2013 issued a Policy on Sustainable Chemistry in Consumables. Last month, the company supplemented that policy with a more detailed Policy Implementation Guide for suppliers. The burdens the documents (together, Policy) present fall squarely on household cleaner and health and beauty product manufacturers. They show how important issues of sustainability have become to consumers nationwide and how, as a result, retailers are willing to drive standards above and beyond what the federal government requires or has the authority to impose.

The Policy requires manufacturers to know, in detail, what chemical ingredients are in the products they make, and it requires them eventually to publicize those ingredients. It also requires manufacturers to strive constantly to replace chemicals deemed to be less sustainable with newer, perhaps more expensive, replacements with which they may be unfamiliar.

These are no small feats. But given how important Walmart is to their bottom lines, consumer product manufacturers are being compelled to learn as much as they can—and as soon as possible—about the regulatory, technical, and logistical challenges they will likely face in reformulating their products to meet Policy goals and provide more sustainable products to their customers.

The Policy defines “sustainable chemistry” as “the design of chemical products and processes that reduce or eliminate the use or generation of hazardous substances, both to humans and the environment.” It focuses on “priority chemicals,” which include

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carcinogens, mutagens, and reproductive toxicants, and—quoting REACH, the European Union regulation governing chemicals—“any chemical for which there is ‘scientific evidence of probable serious effects to human health or the environment which give rise to an equivalent level of concern.’” The Policy then incorporates by reference a number of United States, European Union, and United Nations hazardous or toxic chemicals lists. These include California's Proposition 65 list of developmental/reproductive toxicants and the Environmental Protection Agency's (EPA's) Priority PBT (persistent bioaccumulative and toxic chemicals) list. Together, the consolidated information constitutes a list of “Walmart Priority Chemicals” that the Policy targets for reduction, restriction, or elimination.

The Policy gives additional priority to ten “Walmart High Priority Chemicals.” But Walmart identifies those only to its suppliers, as a “starting point” for Walmart suppliers' sustainable chemistry efforts. Walmart has been criticized for not publicizing this list. But the company obviously is sensitive to the fact that disclosing the High Priority Chemicals list would have a broad impact on suppliers outside of Walmart's consumables business and, indeed, for all consumer product manufacturers worldwide. Its reticence likely is intended to allow an orderly process for its suppliers to transition to safer chemical formulations in their products.

The Policy's three stated primary goals are: 1. increased transparency of product chemistry information; 2. safer product chemistry formulation; and 3. compliance with EPA's Design for the Environment (DfE) program for Walmart's private brand products. With respect to transparency, the Policy requires suppliers to provide full, public online disclosure of their consumable products ingredients by January 2015, and to provide “on pack” information regarding Walmart Priority Chemicals by January 2018. It recommends ingredient disclosure guides issued by EPA and the Consumer Specialty Products Association as sources of information about disclosure, but it also recommends providing additional information to consumers such as CAS number and hazard information. The Policy states that Walmart will measure achievement toward the transparency goal by reference to the percentage of the supplier's products that have online and “on pack” ingredient disclosure in accordance with its recommendations.

To ensure progress toward safer formulations, the Policy requires suppliers to participate in Walmart's Sustainability Index program. That program monitors and measures suppliers' sustainability practices through questionnaires developed by The Sustainability Consortium, which the Policy describes as “a multi-stakeholder organization working to develop a science-based, sustainability measurement and reporting system for consumer goods.”

The Policy also requires suppliers to reduce, restrict, and eliminate the use of priority chemicals “using informed substitution principles,” which the Policy defines as “the considered transition from a chemical of particular concern to safer chemicals or non-chemical alternatives.” The Policy recommends that suppliers follow the Commons Principles of Alternatives Assessment, as follows: 1. reduce hazard; 2. minimize exposure; 3. use best available information; 4. require disclosure and transparency; 5. resolve trade-offs; and 6. take action. The Policy says that Walmart will measure achievement toward this goal using supplier sales volume, the number of UPCs, the number of products using safer formulations, and several other metrics.

Finally, the Policy states that U.S. Walmart and Sam's Club stores will "strive toward formulating and labeling its private brand products" in accordance with EPA's DfE program, beginning in January 2014. DfE is an otherwise-voluntary program that provides tools for companies to determine whether their products meet sustainability criteria.

The Policy is likely to have a large ripple effect. As big as Walmart is, it is likely that the Policy will require suppliers to modify their products for all of their customers, not just for Walmart. Given how potentially cumbersome and expensive it may be to reformulate products and alter manufacturing, packaging, and distribution processes in response to the Policy, suppliers likely will apply changes imposed by the Policy to all of their product lines rather than only the products they supply to Walmart.

Because of the potentially far-reaching effects of the Policy on their business, suppliers should understand in more detail how they will be assessed for compliance with Policy goals and determine which steps they can and should take in response. Removal of even a single ingredient from a product may involve complicated technical and market calculations and effects on a company's bottom line. Most importantly, suppliers will need to understand the role Walmart Priority Chemicals play in their products, and what actual consumer exposure to those chemicals really is, to make their own determination about when, how, and to what degree they reduce or replace them with other chemical formulations.

The Policy states that Walmart will begin publicly reporting progress in meeting Policy goals in its 2016 Global Responsibility Report. It remains to be seen whether all of Walmart's current suppliers can meet the rigorous Policy requirements within this relatively short time frame. At a minimum, though, the Policy is certain to change the consumer product supplier playing field and put pressure on product manufacturers to compete in an ever-more-green marketplace.