

WAC 173-334-120 How will this chapter be enforced? (1) The department may collect children's products subject to possible reporting, and analyze their components for the presence of CHCCs. If the department finds that a children's product component contains a chemical on the CHCC list that the manufacturer either has not reported, or has reported at a lesser amount, the department will notify the manufacturer in writing. The department will then afford the manufacturer forty-five days from receipt of the department's notification to respond to the findings before the department takes further enforcement action.

In determining whether a violation of the CSPA or these rules has occurred, the department will consider the manufacturer's timely explanation as to why it did not report the presence or accurate amount of the CHCC in the product component. If the manufacturer asserts that the CHCC is present in the component only as a contaminant, and that the manufacturer did not report the CHCC's presence based on WAC 173-334-080 (1)(b), then the manufacturer must present evidence that it conducted a reasonable manufacturing control program for the CHCC contaminant and exercised due diligence as described in subsections (2) and (3) of this section.

If the manufacturer contests the department's findings regarding the presence or amount of the CHCC in the product component, the manufacturer may further analyze the component in question for presence of CHCC and provide the department with a copy of its own laboratory findings for the component.

(2) Manufacturing control program. A reasonable manufacturing control program must include industry best manufacturing practices for the minimization of the CHCC in the children's product. Those practices may include, but are not limited to, methods and procedures for meeting relevant federal regulations, International Standards Organization (ISO) requirements, American Society for Testing and Materials (ASTM) standards, and other widely established certification or standards programs.

(3) Due diligence. Actions demonstrating due diligence in ensuring the effectiveness of a manufacturing control program may include the use and enforcement of contract specifications, procedures to ensure the quality/purity of feedstock (whether raw or recycled), the use and enforcement of contract specifications for manufacturing process parameters (e.g., drying and curing times when relevant to the presence of high priority chemicals in the finished children's product components), periodic testing for the presence and amount of CHCCs, auditing of contractor or supplier manufacturing processes, and other practices reasonably designed to ensure the manufacturer's knowledge of the presence, use, and amount of CHCCs in its children's product components.

(4) If the department determines based on the process described in subsection (1) of this section, or on other grounds, that a manufacturer has violated a requirement of the CSPA or these rules, it may require the manufacturer to pay a civil penalty. A manufacturer of children's products in violation of this chapter is subject to a civil penalty not to exceed five thousand dollars for each violation in the case of a first offense. Manufacturers who are repeat violators are subject to a civil penalty not to exceed ten thousand dollars for each repeat offense. Penalties collected under this section must be deposited in the state toxics control account created in RCW 70.105D.070.

(5) A single violation consists of a manufacturer failing to provide the required report for the presence and accurate amount of each

CHCC, in each applicable product category, in each applicable product component.

[Statutory Authority: RCW 70.240.060 and 70.240.035. WSR 17-20-050 (Order 16-08), § 173-334-120, filed 9/29/17, effective 10/30/17. Statutory Authority: Chapter 70.240 RCW, RCW 70.240.040. WSR 11-16-008 (Order 09-04), § 173-334-120, filed 7/21/11, effective 8/21/11.]