

Implementation and Compliance Schedules for EPA's Safer Choice Requirements

Unless specified otherwise, new requirements of the Safer Choice and Design for the Environment (DfE) Standard (including changes to the ingredient criteria) are effective on the issuance date. The implementation process differs based on whether the affected product is a new product or an existing product.

New products. Candidates for partnership and current partners adding new products¹ to the partnership must comply with the revised Safer Choice and DfE Standard as of the issuance date.

Existing products. Existing partnership products must adhere to the following timeline when implementing new Safer Choice requirements:

- Within the year following the issuance date, existing partners will receive notice of the new requirements;
- Within the year following notice, partners must implement the new requirements for currently certified products; and
- After implementation, partners must verify any changes made to meet new requirements for currently certified products at the next product renewal.

Audits, Renewals, and Noncompliance

Audits. To ensure that partnership products are in compliance with the Safer Choice and DfE Standard, and especially that the ingredients in labeled products are identical to those disclosed to Safer Choice, Safer Choice conducts regular partner audits. During the three-year partnership period, Safer Choice will conduct via a third-party profiler (TPP): an on-site audit, a desk audit, and, in the third year, a renewal audit as part of the renewal process described under "Renewals." Under newly established partnerships, an on-site audit must be the first audit conducted during the three-year certification cycle.

It is the responsibility of the partner to schedule audits with the TPP. It is advised that partners enroll in the Safer Choice Community, Safer Choice's online submission system, to receive automated reminders pertaining to compliance requirements. Contact your TPP to set up a Safer Choice Partner Community account.

Upon completion of the audit, the TPPs will promptly notify Safer Choice of all noncompliance issues, highlighting any significant noncompliance, and will outline the steps partners need to take to address these issues (including an expedited review

¹ Under an existing partnership, a *new product* is a formulation that is substantially different from any currently labeled product, with respect to both chemical components and intended use. By this definition, substituting an ingredient in or giving a new name to an existing product would not render the product new. Safer Choice would not permit, however, a partner to reformulate a product with an ingredient that is a known problematic chemical (e.g., a listed CMR or PBT) and in the process of being removed from all labeled products.

of any previously undisclosed product ingredients). Safer Choice will monitor for and, when necessary, manage significant noncompliance issues, such as:

- ingredient misuse, e.g., use of a non-reported or non-acceptable ingredient;
- label misuse or misrepresentation;
- failure to undergo an audit; and
- failure to address all corrective actions in an audit.

Renewals. Prior to the expiration date of the three-year partnership period, Safer Choice and DfE partners must renew their partnership products. During the product renewal process, partners are required to re-submit complete product formulation information, as well as information on packaging, labels, and performance. As part of the renewal, Safer Choice will consider the partner's performance under the partnership, including, but not limited to, its achievement of any continuous improvement targets specified in the agreement. **It is the responsibility of the partner to complete their product renewals prior to the expiration date of the three-year partnership period.** It is advised that partners enroll in the Safer Choice Community to receive automated reminders pertaining to compliance requirements. Contact your TPP to set up a Safer Choice Partner Community account.

Remediation Schedule to Address Partnership Noncompliance

Since remedial steps may take some time to complete, Safer Choice will continue to work with the partners during this period. Failure to act in good faith, i.e., adhering to the schedule below, would lead to partnership probation and possible termination. While acting in good faith, partners will continue to benefit from their partnership status, including product listing on the Safer Choice website.

Audits – Lack of audit.

- Partner notification of noncompliance (“N”), occurs within one month of audit or Safer Choice knowledge of failure to undergo an annual audit.
- Within N+1 months, partner must contact the TPP to schedule the audit (if an on-site audit) or submit all information for the audit (if a desk audit).
- Within N+6 months, audit must be conducted and corrective actions must be completed.

Audits – Failure to address corrective actions.

- Partner notification of noncompliance (“N”), occurs within one month of audit or Safer Choice knowledge of noncompliance.
- Within N+1 months, partner must contact the TPP or Safer Choice to discuss the noncompliance and propose corrective action(s).
- Within N+6 months, corrective action(s) must be completed.

Renewals.

- Partner notification of noncompliance (“N”), occurs within one month of audit or Safer Choice knowledge of noncompliance.
- Within N+3 months, partner must provide all required documentation to the TPP.
- Within N+6 months, product renewal must be completed.

Significant or egregious noncompliance.

- For significant unaddressed noncompliance, partners will be placed on probationary status (via letter indicating immediate mandatory action needed to avoid partnership revocation) and the company will be marked as not in good standing on the Safer Choice website until the compliance issues are resolved.
- For egregious noncompliance, (e.g., intentional ingredient misuse) partners will be subject to partnership termination and all partnership products will be removed from the website.

Summary of Partnership Designations

- Good standing: Partner is in full compliance with the Safer Choice and DfE Standard.
- Remedial status: Partner has significant compliance issues—must follow remediation schedule.
- Probationary status: Partner has significant unaddressed compliance issues—products marked as not in good standing on website; partner faces partnership termination.
- Former: Partner is no longer eligible for partnership and use of the Safer Choice label or DfE logo —products removed from Safer Choice website.

Partnership Termination. Safer Choice will notify partners by letter of partnership termination or loss of partnership for certain labeled products. Upon receipt of this notice, the company must take immediate steps to discontinue use of the Safer Choice label or DfE logo on subject products and notify Safer Choice of its plans and timetable for action. Safer Choice will remove partnership products from the website, as appropriate.

Companies may continue to sell labeled products that are in the production run and ready for shipment, but may not schedule new runs that would apply the Safer Choice label or DfE logo. Companies must also use its best efforts to ensure that any merchants, distributors, or online vendors also cease use of the label or logo in association with the subject products.

Sales of Existing Safer Choice- and DfE-certified Stocks at Partnership

Termination. Safer Choice will attempt to balance the goals of minimizing the potential to mislead purchasers with not imposing undue hardship on product manufacturers.

Preventing Misuse of the Safer Choice Label or DfE logo. After a partnership ends, EPA follows up to ensure that online label use is discontinued. Thirty days after a partnership ends, EPA makes an initial check of the company website to ensure that label use has ceased. If label use has not ended, EPA follows up with a phone call and email notice. After an additional 15 days, EPA checks the company website to ensure the label is not being used. If label use has not ceased, EPA follows up with a second notice. Additional measures follow at 15-day intervals. If after 60 days inappropriate label use has not ended, first, Safer Choice staff, then an EPA attorney, would contact the company.

Continuation of non-compliance would be referred to EPA enforcement.

EPA encourages partners, stakeholders, and the public to inform Safer Choice of any instances of partner or former partner misconduct, including label misuse. Contact us to report misuse of the label by visiting www.epa.gov/saferchoice/forms/contact-safer-choice-program.