

## Implementation and Compliance Schedules for EPA's Safer Choice Requirements

### Basic Implementation and Compliance Schedules

When issued in final form (following public notice and comment), enhancements (i.e., new requirements) to the Safer Choice Standard (including changes to the ingredient criteria) are effective on the issuance date and certain implementation processes will begin then and others will be phased in over time.

- *New products.* As of the enhancement issuance date, candidates for partnership and current partners adding new products<sup>1</sup> to the partnership must comply with the enhanced Safer Choice Standard.
- *Existing products.*
  - Within the year following the issuance date, existing partners will receive notice of the enhancements;
  - Within the year following notice, partners must implement the provision for currently labeled products; and
  - Within a month of implementation, partners must send Safer Choice verification of the change.

Bottom line: Within 13 months of notice of a new requirement under the Standard, Safer Choice will receive partner verification of compliance.

**Audits and Noncompliance.** To ensure that partnership products are in compliance with the Safer Choice Standard, and especially that the ingredients in labeled products are identical to those disclosed to Safer Choice during partnership development (and modification, if any), Safer Choice conducts regular partner audits. Following a pre-partnership paper audit (as per current procedures) and during the three-year partnership period, Safer Choice will conduct via third-party auditor an on-site audit, a desk audit, and a renewal audit on or about the anniversary date of the partnership.

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

- 1) ingredient misuse, e.g., use of a non-reported or non-acceptable ingredient,
- 2) label misuse or misrepresentation, and
- 3) failure to undergo an audit.

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<sup>1</sup> 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.

**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.

- Partner notification of noncompliance (“N”), within one month of audit or Safer Choice knowledge of noncompliance (including failure to undergo an annual audit).
- Within N+3 months, partner must contact the third party or Safer Choice to discuss the noncompliance and propose corrective action.
- Within N+6 months, corrective action must be scheduled.
- Within N+9 months, correction action must be completed and all collateral issues resolved by the end of the year (“N”+12 mos.).

**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 or its noncompliant products will be marked with a double dagger 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 products removed from the website.

### **Summary of Partnership Designations**

- Good standing: Partner is in full compliance with the Safer Choice Standard.
- Remedial status: Partner has significant compliance issues—must follow remediation schedule.
- Probationary status: Partner has significant unaddressed compliance issues—products marked with double dagger on web site; partner faces partnership sunset.
- Sunset: Partner (former) is no longer eligible for partnership and use of the Safer Choice label—products removed from Safer Choice website.

**Partnership Sunset.** Safer Choice will notify partners by letter of partnership sunset 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 on subject products and notify Safer Choice of its plans and timetable for action. Safer Choice will remove partnership products from the web site, 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. If under probationary status, a company may resume use of the label once the noncompliance is remedied and the subject products are relisted on the Safer Choice website.

**Sales of Existing Safer Choice-labeled Stocks at Partnership Sunset.** 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.** 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 web site to ensure that label use has ceased. If label use has not ended, we follow up with a letter that is delivered by post and immediately by email. After an additional 15 days, we check the company web site to ensure the label is not being used. If label use has not ceased, we follow up with a second letter. 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 arms.

We encourage partners, stakeholders and the public to inform the program of any instances of partner or former partner misconduct, including label misuse. [Contact us to report misuse of the label.](#)