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45-DAY PUBLIC NOTICE AND COMMENT PERIOD

SAFER CONSUMER PRODUCTS REGULATIONS – Adding Microplastics to the Candidate Chemical List

Department of Toxic Substances Control reference number: **R-2023-05R**

NOTICE IS HEREBY GIVEN that the Department of Toxic Substances Control (DTSC) proposes to amend the California Code of Regulations, title 22, division 4.5, chapter 55, section 69502.2.

This proposed amendment pertains to additions to the Candidate Chemical List under the Safer Consumer Products (SCP) regulations, which were adopted in 2013.

WRITTEN COMMENT PERIOD

The written comment period will close on August 4, 2025. Only comments received at the DTSC office or postmarked on or before that date will be considered. Any interested person(s) or their authorized representative(s) may submit written comments relevant to the proposed regulatory action to DTSC in either electronic or hard-copy formats.

Written comments may be submitted electronically through the SCP Information Management System, CalSAFER at: <https://calsafer.dtsc.ca.gov/>. Please direct questions or concerns about CalSAFER to Hannah Schoolmeester at Hannah.Schoolmeester@dtsc.ca.gov or 916-322- 4062. While DTSC prefers comments be submitted through the CalSAFER system, interested persons may also submit their comments in an email to: SaferConsumerProducts@dtsc.ca.gov or through the DTSC regulations email address at regs@dtsc.ca.gov. Please include the DTSC reference number for this regulation in the subject of your message. Direct hard-copy written comments to Office of Legislation and Regulatory Review, as specified below.

PUBLIC HEARING

A public hearing has not been scheduled for this rulemaking. However, DTSC will conduct a hearing if a written request for a public hearing is received from any interested person, or his or her duly authorized representative, no later than 15 days prior to the close of the written comment period, pursuant to Government Code Section 11346.8. Submit a written request for a public hearing in an email to SaferConsumerProducts@dtsc.ca.gov or to the Office of Legislation and Regulatory Review, as specified below.

Notice Pertaining to Accessibility and Reasonable Accommodation

All documents related to these regulations can be made available in alternate format (i.e., Braille, large print, etc.) or in another language, as requested, in accordance with State and Federal law. Further, to ensure the public has equal access to all available services and information, DTSC will provide disability-related reasonable accommodation and/or translator/interpreter needs, upon request. For assistance, please contact the office below. Note: the range of assistive series available may be limited if requests are made less than 10 business days prior to a public hearing.

Office of Legislation and Regulatory Review
Department of Toxic Substances Control
P.O. Box 806
Sacramento, California 95812-0806
Fax Number: (916) 324-1808
Phone Number: (279) 895-5179
TTY/TDD/Speech-to-Speech users may dial 7-1-1 for the California Relay Service.

AUTHORITY & REFERENCE

This regulation is being adopted under the following authorities: Health and Safety Code (HSC) sections 25252, 25253, and 58012 (added by Gov. Reorg. Plan No. 1, §146, eff. July 17, 1991). This regulation implements, interprets, or makes specific the following statutes: HSC sections 25252 and 25253.

INFORMATIVE DIGEST

Background and Effect of the Proposed Regulatory Action:

The SCP regulations were adopted in October 2013 to meet the statutory requirements outlined in HSC sections 25252 and 25253. The regulations outline a science-based process for evaluating Chemicals of Concern in consumer products and safer alternatives by:

- Establishing a list of Candidate Chemicals and specifying criteria by which these may be designated Chemicals of Concern;

- Establishing a process to identify and prioritize product and Candidate Chemical combinations that may be listed as Priority Products;
- Requiring manufacturers of a product listed as a Priority Product to notify DTSC within 60 days of the listing regulation's effective date;
- Requiring manufacturers of a Priority Product to determine how best to reduce exposures to the Chemical(s) of Concern in the product;
- Allowing DTSC to identify and require implementation of Regulatory Responses following completion of an Alternatives Analysis, if needed; and
- Creating a process for persons to petition DTSC to add chemicals to the Candidate Chemicals list, add or remove Candidate Chemicals lists in their entirety, or to add or remove a product-chemical combination from the Priority Products List.

DTSC proposes to add microplastics to the Candidate Chemicals List because microplastics meet the criteria for Candidate Chemicals outlined in section 69502.2(b). Specifically, section 69502.2(b) allows DTSC to identify Candidate Chemicals that exhibit one or more hazard traits and/or environmental or toxicological endpoints by considering several factors including the chemical's exposure potential, environmental fate and potential to degrade. Following an extensive review of the scientific literature and analysis of the known hazard traits of microplastics, DTSC concluded the following:

- There is a high potential for animals, humans, and environmentally sensitive habitats to be exposed to microplastics.
- Microplastics have the potential to cause or contribute to adverse impacts for:
 - Sensitive subpopulations,
 - Environmentally sensitive habitats,
 - Endangered or threatened species, or,
 - Environments in California designated as impaired by a California State or federal regulatory agency.
- Microplastics exhibit one or more hazard traits and/or environmental or toxicological endpoints.
- The extent and quality of information available substantiates the existence of potential adverse impacts and exposures of microplastics.

Benefits of the Proposed Regulatory Action:

A primary goal of the SCP regulations is to prevent or reduce potential adverse health and

environmental impacts to the State of California. Because microplastics are mobile in the environment, they are found in virtually all ecosystems, as well as in drinking water, household dust and indoor air. As a result, human and ecological exposure to microplastics is widespread. This proposal to add microplastics to the Candidate Chemical List would allow DTSC to select and regulate Priority Products containing microplastics, which would reduce microplastics in consumer products. In turn, this would reduce microplastic exposures and contribute to healthier California ecosystems, safer homes, offices, schools, workplaces, and a more sustainable environment, with cleaner drinking water and air.

Existing Laws and Regulations:

The SCP regulations established a unique approach to regulating Chemicals of Concern in consumer products that grants DTSC authority to take actions to protect people and the environment when such actions are outside the scope of other regulatory programs. DTSC has assessed all applicable state and federal laws and regulations, as well as international treaties or agreements with the force of domestic law, related to the proposed Candidate Chemical.

DTSC has determined that no state or federal regulations overlap or conflict with this proposal to add microplastics to the Candidate Chemicals List. Therefore, there is no conflict or duplication between state or federal regulation, and this proposed rule, nor are the proposed regulations inconsistent or incompatible with existing state regulations.

Document Incorporated by Reference: None.

OTHER APPLICABLE REQUIREMENTS PRESCRIBED BY STATUTE

California Environmental Quality Act (CEQA) Compliance

The proposed regulation will not result in a change in significance of any of the physical conditions within the environmental factors that are analyzed under CEQA. DTSC has determined none of the exceptions to the categorical exemptions apply to this project, as described in Public Resources Code Section 21084(c), (d), and (e), and 14 CCR Section 15300.2. DTSC has determined that the proposed regulatory amendments are actions taken by DTSC to ensure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment.

DTSC intends to prepare Notice of Exemption (NOE) as the appropriate CEQA document for the adoption of a rule or regulation. A draft NOE is available for review during the public comment period upon request and will be filed with the State Clearinghouse if the regulation is finalized.

California Environmental Policy Council Review

Under the provisions of Health and Safety Code section 25252.5, the California Environmental Policy Council (CEPC) reviewed the framework SCP regulations prior to their adoption in October 2013 (the CEPC Resolution may be viewed at: <https://calepa.ca.gov/cepc/>). Under HSC Section 25252.5(f), the CEPC determined that the proposed regulations would not have any significant adverse impact on public health or the environment and could be adopted by DTSC without undergoing a multimedia life cycle evaluation.

DTSC determined that further review by the CEPC is not warranted for this rulemaking because the requirements of HSC section 25252.5 apply only to the creation of the SCP program and not regulations that may be required to implement this program.

Peer Review

DTSC requested and obtained an external scientific peer review of the scientific basis of the proposed regulation pursuant to Health and Safety Code section 57004. The result of the external scientific peer review is posted to DTSC's rulemaking website at: <https://dtsc.ca.gov/regs/>.

DISCLOSURES REGARDING THE PROPOSED ACTION

DTSC has determined that adoption of this regulation will not impose a local mandate or result in costs subject to state reimbursement pursuant to part 7 of division 4, commencing with section 17500, of the Government Code or other nondiscretionary costs or savings to local agencies.

Mandate on Local Agencies and School Districts: None.

Costs or Savings to Any State Agency: None. However, in the future, engaging in potential compliance oversight activities with manufacturers of newly regulated Priority Products containing microplastics would generate minor and absorbable costs for DTSC.

Cost to Any Local Agency or School District Which Must Be Reimbursed in Accordance With Government Code sections 17500 through 17630: None

Other Nondiscretionary Cost or Savings Imposed on Local Agencies: None.

Cost or Savings in Federal Funding to the State: None.

Cost Impacts on Representative Private Persons or Businesses: DTSC is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: DTSC has determined that the proposed regulation will have no

significant effect on housing costs.

Effect on Small Businesses: DTSC has determined that the adoption of this regulation will not affect small businesses because the regulations do not impose new responsibilities for small businesses.

DETERMINATION OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT

These regulations do not impose new responsibilities for businesses; therefore, DTSC has determined that the proposed changes to these regulations will not have a significant, statewide adverse impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. The proposed regulation merely adds microplastics to the DTSC Candidate Chemicals List.

DTSC has considered proposed regulatory alternatives that would lessen any adverse economic impact on business and invites interested parties to submit proposals. Submissions may include the following considerations:

- i. The establishment of differing compliance or reporting requirements or timetables that consider the resources available to businesses.
- ii. Consolidation or simplification of compliance and reporting requirements for businesses.
- iii. The use of performance standards rather than prescriptive standards.
- iv. Exemption or partial exemption from the regulatory requirements for businesses.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

Creation of New Businesses or Elimination of Existing Businesses:

DTSC determined that it is: (1) unlikely that the proposal will eliminate any jobs, (2) unlikely that the proposal will create an unknown number of jobs, (3) unlikely that the proposal will create new businesses, (4) unlikely that the proposal will eliminate any existing businesses, and (5) unlikely that the proposed regulations will result in the expansion of businesses currently doing business within the state.

Expansion of Businesses Currently doing Business:

DTSC determined that this proposed regulation will not result in the expansion of businesses currently doing business within the state.

Benefits of the Regulation on the Health and Welfare of California Residents, Worker Safety, and the State's Environment:

The proposed regulations will benefit the health and welfare of California residents, worker safety, and the state's environment. As stated above, future actions enabled by this rule will reduce microplastic exposures in consumer products, contributing to healthier California ecosystems, safer homes, offices, schools, workplaces, and a more sustainable environment, with cleaner drinking water and air.

CONSIDERATION OF ALTERNATIVES

DTSC must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of DTSC would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. DTSC's consideration of alternatives is available in the Initial Statement of Reasons included as part of this proposed regulation.

CONTACT PERSONS

Inquiries regarding technical aspects of the proposed regulation or CEQA documents may be directed to Hannah Schoolmeester of DTSC at Hannah.Schoolmeester@dtsc.ca.gov or 916- 322-4062. If unavailable, inquiries can be directed to David Rist of DTSC at David.Rist@dtsc.ca.gov or 510-540-3763. However, such oral inquiries are not part of the rulemaking record.

A public comment period for the rulemaking has been established commencing on June 20, 2025, and closing on August 4, 2025. Statements, arguments, or contentions regarding the rulemaking and/or supporting documents must be submitted in writing or presented orally or in writing at a public hearing, if a hearing is requested, for them to be considered by DTSC before it adopts these regulations.

DTSC will accept statements, arguments, or contentions, and/or supporting documents regarding this rulemaking submitted in writing either through CalSAFER or by mail, or they may be presented orally or in writing at a public hearing, if a hearing is requested.

AVAILABILITY OF TEXT OF PROPOSED REGULATIONS, INITIAL STATEMENT OF REASONS, AND OTHER RULEMAKING DOCUMENTS

Copies of the Notice of Proposed Action, Initial Statement of Reasons, all the information upon which this proposal is based, and the express terms of the proposed regulation (also known as the proposed regulatory text) are posted to DTSC's website at <https://dtsc.ca.gov/dtsc-proposed->

[regulations/](#) and will be made available for viewing at the Office of Legislation and Regulatory Review, as specified below.

Office of Legislation and Regulatory Review
Department of Toxic Substances Control
1001 I Street
Sacramento, California 95814-2828

The text of the proposed amendment contains the following formatting features:

- The symbol “*****” means that intervening text not proposed for amendment is not shown.
- Proposed additions are indicated in single underlining to show where the new text is being added.
- Proposed deletions (repeals) are indicated as a strikethrough to show where the existing text is being removed.

After the close of the comment period, DTSC may adopt the proposed regulation. If substantial, sufficiently related changes are made to the regulatory text, the modified full text (with the changes clearly indicated) will be made available for comment for at least 15 days prior to adoption. Only persons who request to be notified of any modifications to the proposed text, submit written or oral comments (comments submitted at a hearing, if one is held, or comments submitted to DTSC), will be sent a copy of the modified text, if substantial, sufficiently related changes are made.

Once DTSC finalizes the regulatory text, DTSC will prepare a Final Statement of Reasons that updates the Initial Statement of Reasons, summarizes how DTSC addressed comments, and includes other materials. A copy of the Final Statement of Reasons will also be posted on DTSC’s website at <https://dtsc.ca.gov/dtsc-proposed-regulations/>, along with the date the rulemaking is filed with the Secretary of State and the effective date of the regulation.

ALL OTHER QUESTIONS/COMMENTS/INQUIRIES/UPDATES

Please direct all written comments, procedural inquiries, and requests for documents by mail or email to the Office of Legislation and Regulatory Review, as specified above. To be included in this regulation package’s mailing list and to receive updates for this rulemaking, please email your request to regs@dtsc.ca.gov.