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Secretary for  
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## Department of Toxic Substances Control

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**Edmund G. Brown Jr.**  
Governor

### 15-DAY PUBLIC NOTICE AND COMMENT PERIOD

### NOTICE OF PUBLIC AVAILABILITY OF CHANGES TO PROPOSED REGULATIONS TEXT

### *SAFER CONSUMER PRODUCTS*

**Department Reference Number: R-2011-02**  
**Office of Administrative Law Notice File Number: Z-2012-0717-04**  
**Office of Administrative Law File No: 2013-0718-03 S**

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Pursuant to Government Code section 11346.8(c), notice is hereby given that the Department of Toxic Substances Control (DTSC) has revised the text of the proposed regulations which establish the process for identifying and prioritizing consumer products and their chemicals of concern, evaluating their alternatives, and imposing regulatory responses, by adding chapter 55 of division 4.5 of Title 22, California Code of Regulations, and amending the Table of Contents. A written comment period for these **LATEST REVISIONS** to the proposed regulations text has been established to commence on August 23, 2013, and close at **5:00p.m.** on **September 9, 2013**.

DTSC mailed the original text and made it available for public review and comment on July 27, 2012. A public hearing was held on September 10, 2012, during which DTSC accepted written and oral testimony. In addition, written comments were accepted during the 45-day public comment period, which was extended by 30 days, and ended October 11, 2012. DTSC made post-hearing changes to the proposed regulations, which were mailed and made available for public review and comment on January 29, 2013. Written comments were accepted on these post-hearing changes through February 28, 2013. DTSC made additional post-hearing changes to the proposed regulations, which were mailed and made available for public review and comment on April 10, 2013. Written comments were accepted on these subsequent post-hearing changes through April 25, 2013.

DTSC submitted the final rulemaking package for these regulations to the Office of Administrative Law in July 2013. Based on feedback received from the Office of

Administrative Law, DTSC has determined that the attached revisions to the proposed regulations are necessary as explained below:

- (1) **Section 69501.3(b)** is added to require that documents submitted to DTSC under the regulations be in English and be provided in an electronic format accessible to DTSC.

This provision is necessary to ensure that the information provided to DTSC (on either a mandatory or a voluntary basis) can be reviewed, evaluated, and processed by DTSC as effectively and efficiently as possible. This provision is also necessary to provide each person submitting information to DTSC flexibility as to how the information is submitted as long as it is accessible to DTSC. This flexibility is provided in recognition of the fact that different persons will have different information-generating capabilities and formats.

- (2) **Section 69509.1(a)** is added to require that DTSC review a trade secret claim for information submitted under the regulations, along with the information provided in support of the trade secret claim, before disclosing the information that is the subject of the trade secrecy claim.

This provision is necessary to ensure that DTSC does not release to the public information for which a valid trade secrecy claim has been filed; and, on the other hand, to ensure that information is not withheld from the public based upon an invalid trade secrecy claim. This is necessary to maximize transparency and public access to information submitted to DTSC under these regulations, while protecting validly claimed trade secrets.

- (3) **Section 69509.1(c)** is added to specify that, if DTSC determines that the information submitted in support of a trade secrecy claim does not establish that the information claimed to be trade secret meets the definition of “trade secret”, DTSC will notify the submitting party of its determination by certified mail. The notice will also inform the submitting party that thirty (30) days from the date of the notice of DTSC’s determination, the information will be regarded as a public record subject to disclosure. This provision also provides that during the 30-day period the submitting party may seek judicial intervention by bringing an action for a preliminary injunction and/or declaratory relief to prevent disclosure of the information claimed as trade secret.

This provision is necessary to implement Health and Safety Code section 25257(c)(3), which requires DTSC to give 30-days’ notice to the submitter of information claimed to be trade secret before releasing any such information, authorizes submitters to seek judicial intervention to prevent information release, and specifies judicial remedies that may be sought. This provision is necessary to establish a time frame and procedure for resolving disputed trade secrecy claims, and to allow time for a claimant that receives an adverse determination from DTSC to seek judicial review of the DTSC determination.

A copy of the revised text is provided in the attachment called "Revisions to Proposed Regulations". All of the text in these regulations is new language to be added to the California Code of Regulations as Chapter 55 of Division 4.5 of Title 22. Text shown in underline (for added text) or ~~strikeout~~ (for deleted text) reflects changes to the proposed regulations text submitted to the Office of Administrative Law as part of the final rulemaking file. DTSC considers these new changes to the rulemaking to be "sufficiently related changes", as defined in Title 1, California Code of Regulations, section 42.

**DTSC will be accepting, through September 9, 2013, written comments solely on the August 23, 2013 revisions.**

The information upon which DTSC relied on is available for public inspection between 8:00 a.m. and 5:00 p.m. on the 23<sup>rd</sup> Floor, 1001 I Street, Sacramento, California. Requests and inquiries concerning this matter may be directed to Manpreet Singh at the address indicated below; or by telephone at (916) 322-2543.

Copies of the revised text of the proposed regulations are also posted to DTSC's internet site at: <http://www.dtsc.ca.gov/LawsRegsPolicies/Regs/index.cfm> and <http://www.dtsc.ca.gov/SCPRegulations.cfm>, or may be obtained from Manpreet Singh.

Notice is given that any interested persons may submit comments regarding the **August 23, 2013 REVISIONS** to the proposed text to DTSC by email at [gcregs@dtsc.ca.gov](mailto:gcregs@dtsc.ca.gov), fax (916) 323-5542, or by mail to:

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Regulations Section  
Department of Toxic Substances Control  
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***PLEASE NOTE: All comments must be received by DTSC no later than 5:00 P.M. PDT on September 9, 2013, regardless of the form of transmission.***