



Yana Garcia
Secretary for
Environmental Protection



Department of Toxic Substances Control

Meredith Williams, Ph.D.
Director
1001 "I" Street
P.O. Box 806
Sacramento, California 95812-0806



Gavin Newsom
Governor

MEMORANDUM

TO: Kenneth Pogue, Director
Office of Administrative Law

FROM: Meredith Williams, Director
Department of Toxic Substances Control

CC: Karl Palmer, Deputy Director
Safer Consumer Products Program
Department of Toxic Substances Control

Steven Escobar, Senior Attorney
Office of Administrative Law

DATE: February 24, 2023

SUBJECT: REQUEST FOR EXTENSION OF DISAPPROVAL RESUBMITTAL DUE
DATE IN OAL MATTER NO. 2022-0930-02S

The Department of Toxic Substances Control (DTSC) requests a 90-day extension of the due date of March 21, 2023, for resubmittal of the disapproved portion of the rulemaking action referenced above, to June 19, 2023. DTSC received substantial and sufficiently related technical comments during the 15-day Notice of Public Availability and Comment of the disapproved portion. DTSC believes an additional 15-day comment period to modify the proposed regulatory language is necessary to clarify the provisions and constitutes a good cause for an extension of the resubmittal due date.

Background

Existing regulations in Chapter 55 of Division 4.5 of Title 22 of the California Code of Regulations (the "CCR") establish a process for identifying and prioritizing Priority Products and their Chemicals of Concern. These existing regulations also establish a process for identifying and analyzing alternatives to determine how best to eliminate or

reduce potential exposures to, or the level of potential adverse impacts posed by, the Chemical(s) of Concern in Priority Products. In this regular rulemaking, DTSC added nail products containing toluene as a Priority Product on the Priority Products List.

On September 30, 2022, DTSC submitted the above-referenced rulemaking action to the Office of Administrative Law (OAL) for review. On November 14, 2022, OAL (1) approved DTSC's amendment of section 69511 and adoption of subsections (a) through (g) of section 69511.6, and (2) notified DTSC of OAL's decision to disapprove the proposed adoption of subsection (h) of section 69511.6. DTSC received OAL's Decision of Disapproval of Regulatory Action on November 21, 2022.

On January 20, 2023, DTSC initiated a 15-day Public Availability and Comment Period providing modifications to proposed subsection (h) of section 69511.6 that outline the method performance criteria for analytical lab testing that must be met for manufacturers to demonstrate compliance with the Alternative Analysis Threshold Notification requirements. DTSC concluded the comment period on February 6, 2023, and received two comment letters. One comment letter from the Personal Care Products Council provided 17 scientifically technical comments regarding specific analytical lab procedures included in the proposed modifications. A number of these comments suggested substantive modifications to the revised language.

DTSC determined it is necessary to further modify the proposed regulatory language to include these changes. However, DTSC would be unable to make the needed changes and complete another 15-day comment period before the resubmittal period expires.