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45-DAY PUBLIC NOTICE AND COMMENT PERIOD

SAFER CONSUMER PRODUCTS REGULATIONS – Clarifying Compliance Options for Importers

Department of Toxic Substances Control reference number: R-2025-01R

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, sections 69501.1, 69501.2, and 69501.5. These proposed amendments pertain to the compliance options for importers under the Safer Consumer Products (SCP) Regulations, approved by the Office of Administrative Law (OAL) and filed with the Secretary of State on August 28, 2013 (effective date: 10/01/2013; OAL Regulatory Action Number: Z-2012-07170-04).

WRITTEN COMMENT PERIOD

The written comment period will close on July 7th, 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 Logan Hayes at 916-322-4985 or Logan.Hayes@dtsc.ca.gov. 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 accommodations 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
TTY/TDD/Speech-to-Speech users may dial 7-1-1 for the California Relay Service.

AUTHORITY & REFERENCE

Authority

This regulation is being adopted under the following authorities:

- Health and Safety Code (HSC) section 25252 authorizes and requires DTSC to adopt regulations to establish a process to identify and prioritize those chemicals or chemical ingredients in consumer products that may be considered a Chemical of Concern. This section also directs DTSC to reference and use available information from various sources but does not limit DTSC to use only this information.
- HSC section 25253 authorizes and requires DTSC to adopt regulations that establish a process for evaluating Chemicals of Concern in consumer products, and their potential alternatives, to determine how best to limit exposure to or to reduce the level of hazard posed by a Chemical of Concern.
- HSC section 58012 (added by Gov. Reorg. Plan No. 1, section 146, eff. July 17, 1991) grants DTSC authority to adopt regulations to execute its duties.

Reference

This regulation implements, interprets, or makes specific the following statutes:

- HSC sections 25252 and 25253.

INFORMATIVE DIGEST

Policy Statement Overview:

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 existing chemical lists in their entirety, or to add or remove a product-chemical combination from the Priority Products List.

DTSC proposes to amend sections 69501.1, 69501.2, and 69501.5 to article 1 of the SCP Regulations. The proposed regulatory amendments clarify compliance options for importers. These amendments apply to all product-chemical combinations listed by DTSC under the SCP Regulations as described in the California Code of Regulations, title 22, division 4.5, chapter 55.

The proposed regulatory amendments are necessary because the SCP Regulations do not clearly identify compliance options for importers if provided notice to comply in accordance with section 69501.2(a)(1)(A).

Benefits of the Proposed Regulatory Action:

The proposed regulatory amendments largely serve to provide clarity to the SCP Regulations. Options for importer compliance are already present in the SCP Regulations, albeit not explicitly described. Thus, the proposed amendments explicitly describe the ways in which

importers can comply with the SCP Regulations when manufacturers fail to comply and the importers of Priority Products are called upon via a section 69501.2(a)(1)(A) notice.

Compared to Product Cease Ordering Notifications required of retailers and assemblers, Importer Product Removal Notifications require information that targets the role of importers in the stream of commerce in California. If importers contact or otherwise incentivize upstream manufacturers of listed Priority Products to establish compliance, importers would no longer be required to comply with the SCP Regulations.

Therefore, the proposed regulatory amendments provide clarity and support predictable implementation of the SCP Regulations.

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. There are no equivalent federal or state regulations that require product manufacturers to determine if the chemical in their product is necessary and whether there is a safer alternative, with the goal of protecting consumers and the environment from adverse effects associated with a product throughout its lifecycle.

Related State Laws and Regulations:

The only related California law and regulations are the existing SCP Regulations. The proposed regulatory amendments do not produce any new requirements on any person or business, but rather clarify importers' options for compliance when manufacturers fail to comply with the requirements of Priority Product listings within the SCP Regulatory Framework.

Evaluation of Inconsistency/Incompatibility with Existing State Regulations:

DTSC conducted an evaluation of whether there are any other regulations on this matter, and as stated above, these are the only regulations concerning clarifying compliance options for importers of Priority Products. Therefore, the proposed regulations are neither inconsistent nor incompatible with existing state regulations.

Comparable Federal Regulation or Statute:

These regulations are not based on, identical to, or in conflict with any federal regulations.

OTHER APPLICABLE REQUIREMENTS PRESCRIBED BY STATUTE

California Environmental Quality Act (CEQA) Compliance

DTSC has determined that this rulemaking would be exempt from CEQA (Public Resources Code Section 21000, et seq.) under the common sense exemption available under 14 CCR section 15061(b)(3). A draft Notice of Exemption (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: <http://www.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.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

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.

COST OR SAVINGS TO STATE OR LOCAL AGENCIES, OR SCHOOL DISTRICTS SUBJECT TO REIMBURSEMENT

DTSC determined that adoption of this regulation will not result in costs or savings for any local agency or school district required to be reimbursed pursuant to part 7 of division 4, commencing with section 17500 of the Government Code, or other nondiscretionary costs or savings imposed on local agencies.

Costs or Savings to Any State Agency:

The proposed regulation will result in no additional costs to the State.

Local Agencies:

DTSC determined that adoption of this regulation will not impose a local mandate or result in costs or savings for any local agency subject to 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.

School Districts:

DTSC determined that adoption of this regulation would not result in costs or savings for any school district required to be reimbursed pursuant to part 7 of division 4, commencing with section 17500 of the Government Code.

Federal Funding to the State:

DTSC determined that adoption of this regulation will not result in cost or savings in federal funding to the state. DTSC determined that no fiscal impact to federal funding or state programs exists.

DETERMINATION OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT

DTSC has made the initial determination that the proposed regulatory action will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. DTSC determined the proposed regulation is not a major regulation and is unlikely to have a significant adverse impact on businesses.

Types of Businesses Affected: DTSC determined the proposed regulatory action places no new requirements on businesses.

Projected Reporting, Recordkeeping, or other Compliance Requirements: In accordance with Government Code sections 11346.3(c) and 11346.5(a)(11), DTSC found that the reporting requirements of the proposed regulatory action, which apply to businesses, are necessary for the health, safety, and welfare of the people of the State of California. The specific reporting requirement and form the proposed regulatory action implements is the Importer Product Removal Notification [section 69501.2]. The Importer Product Removal Notification is the importer's equivalent of a retailer and assembler's Product Cease Ordering Notification [69501.2(b)(2)(B)].

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.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

Creation of New Businesses or Elimination of Existing Businesses:

DTSC determined that this proposal will not eliminate or create businesses or jobs.

Expansion of Businesses Currently doing Business:

DTSC has determined that the proposed regulation will not lead to the expansion of businesses currently doing business.

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 proposed regulations will not affect small businesses because the proposed amendments merely clarify and detail an existing process.

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

By clarifying compliance options for importers of Priority Products, the proposed regulations will ultimately benefit the health and welfare of California residents, worker safety, and the state's environment.

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 Logan Hayes of DTSC at 916-322-4985 or Logan.Hayes@dtsc.ca.gov, or, if unavailable, David Rist of DTSC at 510-540-3763 or David.Rist@dtsc.ca.gov. However, such oral inquiries are not part of the rulemaking record.

A public comment period for the rulemaking has been established commencing on May 23rd, 2025, and closing on July 7th, 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, in order for them to be considered by DTSC before it amends 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 regulation 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 e-mail your request to regs@dtsc.ca.gov.