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45-DAY PUBLIC NOTICE AND COMMENT PERIOD

SAFER CONSUMER PRODUCTS REGULATIONS – SB 502 (2022) Mandated Framework Regulations Amendments

Department of Toxic Substances Control reference number: **R-2023-15R**

NOTICE IS HEREBY GIVEN that the Department of Toxic Substances Control (DTSC) proposes to amend sections 69503.5, 69504, 69504.1, 69505.1, and 69506.1 of articles 3, 4, 5, and 6, chapter 55 of division 4.5 of title 22 of the California Code of Regulations [Safer Consumer Products (SCP) regulations]. These proposed amendments are required by Senate Bill (SB) 502 (Chapter 701, Statutes of 2022), which added a new petition pathway under the SCP regulations. The regulatory amendments allow DTSC to list a Priority Product and rely on publicly available studies or evaluations of alternatives in lieu of an Alternatives Analysis to proceed directly to regulatory response and adds mandated additional applicability to the petition process.

COMMENT PERIOD

A public comment period for the rulemaking has been established commencing on June 6, 2025, and closing on July 21, 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 adopts these regulations.

Written comments may be submitted electronically through the SCP Information Management System, CalSAFER at: <https://calsafer.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
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: HSC sections 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

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

SB 502 authorizes DTSC to rely on all or part of one or more applicable publicly available studies or evaluations of alternatives in lieu of an Alternatives Analysis to proceed directly to regulatory response. The process to proceed directly to regulatory response includes the following elements:

- The evaluation or study relied upon must meet reliability criteria; namely, it must be published in a scientifically peer reviewed report or other literature, published in a report of the U.S. National Academies, or published in a report by an international, federal, state, or local agency that implements laws governing chemicals. The evaluation or study must also include a study design appropriate to the hypothesis being tested and be sufficient to support the study propositions.
- The proposal to proceed directly to regulatory response must address any relevant factors that may be addressed as part of a regulatory response. The specified factors are:
 - the extent that the regulatory response addresses adverse impacts
 - the ability of end users to understand regulatory responses that include information or directions
 - adverse ecological impacts of the regulatory response on sensitive receptors or additional burdens imposed on sensitive subpopulations
 - existing federal or California regulatory requirements applicable to the chemicals in the product
 - the cost of the regulatory response to the responsible entity

- the practical capacity of the responsible entity to comply with the regulatory response
- the management and cleanup costs imposed on public agencies by the ongoing sale of the Priority Product
- DTSC's administrative burden to oversee the regulatory response
- the ease of enforcing the regulatory response
- If the study or evaluation relied upon does not address one or more of these factors, DTSC may augment the study or evaluation with additional information that addresses these factors.

The proposal to proceed directly to regulatory response may be combined with a proposal to list a chemical-product combination as a Priority Product. DTSC must provide public notice, an opportunity for comments from the public and responsible entities, and responses to all comments received. Following public notice and comment period, DTSC would make a formal determination of whether the studies or evaluations are applicable and meet the reliability criteria, and whether the relevant factors have been addressed. DTSC must publish a summary of its determination and specify whether DTSC plans to proceed to regulatory response. After the formal determination, DTSC may issue regulatory responses.

SB 502 also mandates DTSC to amend sections 69504 and 69504.1 of title 22 of the California Code of Regulations to allow a person to petition the department for a regulatory response pursuant to subdivision (d). Such a petition must include the studies or evaluations relied on, a description of how the studies satisfy the reliability criteria described above, and a demonstration of the relevant regulatory response factors addressed.

Benefits of the Proposed Regulatory Action

These amendments add an additional applicability to the petition process whereby the public may petition the department to add a product-chemical combination to the Priority Products list that will proceed directly to regulatory response in lieu of requiring an Alternatives Analysis. The amendments also make other required modifications to the existing regulatory framework to allow DTSC to use the new statutory authority. This petition process enables interested parties, including individuals, industry, organizations, educational institutions, and government agencies, to present DTSC with information that a product-chemical combination poses a threat and provide information about existing safer chemical alternatives or engineering substitutes to ameliorate that threat. This engagement provides DTSC additional avenues for gathering information about the California consumer product market, in turn contributing to DTSC's goal to reduce and prevent potential adverse health and environmental impacts.

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 and has determined that no state or federal regulations overlap or conflict with this proposal.

Related State Laws and Regulations

The only related state laws and regulations are the existing SCP regulations adopted to meet the statutory requirements outlined in HSC sections 25252 and 25253. The existing regulations compel manufacturers of a Priority Product to determine how best to reduce exposures to the Chemical(s) of Concern in the product, often through an Alternatives Analysis, and allow DTSC to identify and require implementation of regulatory responses when the Alternatives Analysis is completed. These proposed regulations do not overlap or conflict with the existing requirements because the new authority granted in HSC section 25253 allows DTSC to rely on a study or evaluation to proceed directly to regulatory response.

Comparable Federal Regulation or Statute

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

Document Incorporated by Reference: None

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 title 14, California Code of Regulations, 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 HSC 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.

Peer Review

This proposed regulation does not require external scientific peer review because it does not contain a scientific element nor is it based in science. It clarifies and implements existing statutory authority.

DISCLOSURES REGARDING THE PROPOSED ACTION

DTSC has determined that adoption of this regulation will not impose a local mandate or result in costs or savings for any local agency or school district 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, reviewing and considering potential future petitions that may arise as a result of this regulation 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.

Significant Effect on Housing Costs: None.

Effect on Small Businesses: DTSC determined that small business will not be affected because the proposed amendments add mandated additional applicability to an existing petition process and clarify existing authority established by SB 502 (2022).

RESULTS OF THE ECONOMIC IMPACT ANALYSIS/ASSESSMENT

DTSC concludes 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.

Benefits of the Regulation on the Health and Welfare of California Residents, Worker Safety, and the State's Environment: DTSC has determined that the adoption of this regulation potentially benefits the health and welfare of California residents, worker safety, or the State's environment. Providing an additional petition pathway may increase DTSC's ability to address adverse health and environmental impacts of a Priority Product.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), DTSC must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed or 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 invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

CONTACT PERSONS

Inquiries regarding technical aspects of the proposed regulation or CEQA documents may be directed to Cathy Valentine of DTSC at 510-540-3837 or Cathy.Valentine@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.

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 e-mail your request to regs@dtsc.ca.gov.