

**The PFAS Regulatory Coalition**  
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California Department of Toxic Substances Control

*Submitted electronically at:*

<https://calsafer.dtsc.ca.gov/cms/commentpackage/?rid=12752#viewcomments>

**Re: PFAS Regulatory Coalition's Comments on California DTSC's Draft Product – Chemical Profile for Food Packaging Containing Perfluoroalkyl or Polyfluoroalkyl Substances**

Dear Madam or Sir:

The PFAS Regulatory Coalition (Coalition) appreciates the opportunity to submit comments on the California Department of Toxic Substances Control's ("DTSC") Draft Product - Chemical Profile for Food Packaging Containing Perfluoroalkyl or Polyfluoroalkyl Substances dated July 2020 (hereafter, the "Draft Profile"). In the Draft Profile, DTSC states it "has determined that food packaging containing any member of the class of perfluoroalkyl and polyfluoroalkyl substances (PFASs) meets the key prioritization criteria (California Code of Regulations, title 22, section 69503.2(a)) for listing a Priority Product," and that it "proposes to list plant fiber-based food packaging products containing any member of the class of [PFAS] as a Priority Product." The proposed Draft Profile is unnecessary, given existing regulation of these uses by the U.S. Food & Drug Administration (FDA). The Draft Profile is also overly-broad and, if DTSC proceeds with finalizing it, the Coalition urges it to include only those individual PFAS compounds that meet the listing criteria.

**A. The Coalition's Interest**

The Coalition is a group of industrial companies, municipal entities, agricultural parties, and trade associations that are directly affected by the development of legislation, policies and regulations related to per- and polyfluoroalkyl substances (PFAS). Coalition membership includes entities in the automobile, coke and coal chemicals, iron and steel, municipal, paper, petroleum, and other sectors. None of the Coalition members manufacture PFAS compounds. Coalition members, for purposes of these comments, include: Airports Council International – North America; American Coke and Coal

Chemicals Institute; American Forest and Paper Association; American Fuel & Petrochemical Manufacturers; American Iron and Steel Institute; Barr Engineering; Brown & Caldwell; Gary Sanitary District (IN); Illinois Association of Wastewater Agencies; Lowell, MA; Pueblo, CO; Tempe, AZ; Trihydro; TRS Group; and Yucaipa Valley Water District (CA).

The Coalition supports actions that provide uniformity across the country of PFAS-related legislation, regulation and policy. Further, the Coalition advocates for legislation and regulations that do not duplicate efforts among jurisdictions, do not regulate PFAS compounds as a singular class, and do not impose requirements that are not technically supported or practically implementable.

**B. The Draft Profile should not include “PFAS” as an entire class of compounds.**

The Draft Profile takes a position that is overly-broad and overly-simplified. DTSC states: “PFASs are a wide and varied group of chemicals used in many applications. All PFASs share one common trait – highly stable carbon-fluorine (C-F) bonds that make them or their final degradation products highly persistent in the environment.” Draft Profile at 5. DTSC then uses this persistence as a basis for listing, stating: “Persistence is a hazard trait identified in the Office of Environmental Health Hazard Assessment’s Green Chemistry Hazard Traits regulation 69405.3: ‘Persistence of a chemical in the environment promotes sustained exposure and contributes to accumulation in the environment.’” Draft Profile at 6. However, DTSC does not recognize that, given the extremely wide variations in the thousands of compounds within this broad family of compounds, there can also be extremely wide variations in their properties, including degradation and environmental persistence, human toxicities, environmental threats, and other characteristics.

Given the extremely wide variation exhibited by different PFAS compounds and associated human health profiles, it is scientifically unsound to group all PFAS together for purposes of risk assessment or to assume that exposures to mixtures of PFAS necessarily bioaccumulate in interchangeable 1:1 ratios. From a toxicological perspective, regulatory agencies must have adequate science for determining health-based values before promulgating individual-compound standards, limits, and related regulations. The most prevalent and available science regarding the incidence and potential health effects of PFAS is based on PFOA and PFOS. Indeed, there have already been voluntary phase outs of these two compounds in food packaging beginning at least ten years ago and, recently, manufacturers have begun voluntarily taking steps to move toward non-PFAS chemistries.

The Draft Profile recognizes that PFAS compounds in food packaging are already regulated by FDA, including through the food contact notification (FCN) process. It identifies 17 PFAS compounds approved through FCNs and states that two of these have

been requested to be removed, resulting in only 15 PFAS compounds approved for food contact packaging. This demonstrates that FDA and the manufacturers are actively reviewing and regulating these uses, making the Draft Profile unnecessary. Despite these actions and the limited number of PFAS compounds at issue, the Draft Profile seeks to impose the listing on all of the thousands of compounds within the PFAS family, not even attempting to at least limit it to those that could be related to the 15 approved for the targeted use.

By failing to recognize the specific PFAS used in food packaging, DTSC is proposing a Draft Profile that is not practically implementable. The Draft Profile states: “DTSC has determined that food packaging containing any member of the class of perfluoroalkyl and polyfluoroalkyl substances (PFASs) meets the key prioritization criteria.” Draft Profile at 4. However, DTSC recognizes elsewhere in the Draft Profile that there are other sources of PFAS, and certain PFAS compounds can be measured at parts per trillion levels.

DTSC also recognizes that it is difficult to measure PFAS in packaging, and implies measuring for total fluorine (Draft Profile at 42). Yet again, that approach is far too broad, and will bring in products with absolutely no threat or risk, merely by the presence of fluorine.

The Draft Profile should focus only on those PFAS that are intentionally added to impart a specific functionality to the final product. Without such limitations, the Draft profile is overly inclusive.

If DTSC proceeds with this Draft Profile, it should take the time to specify which specific PFAS compounds are being targeted. The Draft Profile over-simplifies PFAS use in food packaging resulting in a proposed listing that is overly broad. Without a fundamental change in approach towards regulating those PFAS compounds linked to human health or environmental threat, DTSC should not move forward to finalizing this profile.

**C. Conclusion**

The Coalition appreciates the opportunity to submit these comments concerning the Draft Profile. Please feel free to call or e-mail if you have any questions, or if you would like any additional information concerning the issues raised in these comments.

A handwritten signature in blue ink, appearing to read 'Jeffrey Longworth', is positioned above the contact information.

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