

STATE OF CALIFORNIA
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

PUBLIC WORKSHOP

REMOTE MEETING
CALIFORNIA

FRIDAY, MAY 15, 2020

9:00 A.M.

Reported by:
Peter Petty

APPEARANCESDTSC SAFER CONSUMER PRODUCTS PROGRAM:

Karl Palmer, Acting Deputy Director

PUBLIC COMMENT:

Melody LaBella, Central Contra Costa Sanitary District

Joanne Brasch, California Product Stewardship Council

Anna Reed, Natural Resources Defense Council

Greg Kester, California Association of Sanitation Agencies

Suzanne Hume, CleanEarth4Kids

Diane Wolkey, Self (phonetic)

Gail Brice, Self (phonetic)

John Bottorff, CleanEarth4Kids

Heidi Sanborn, National Stewardship Action Council

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P R O C E E D I N G S

9:00 a.m.

ACTING DEP. DIRECTOR PALMER: Thank you. Good morning. My name is Karl Palmer. I am the Acting Deputy Director of the Safer Consumer Products --

[Whereupon the teleconference operator breaks in to the Court Reporter's audio connection, and a brief off-the-record conversation between Operator and Court Reporter occurs.]

"You will now be placed into conference."

ACTING DEP. DIRECTOR PALMER: -- Program of the Department of Toxic Substances Control. I will be the Hearing Officer for today's proceedings. We have modified the standard public hearing process to provide an opportunity for a virtual hearing in response to the COVID-19 emergency. It is our intent to ensure that anyone who has a comment can provide oral testimony today. You will be able to indicate your intention to speak and provide an oral comment.

If for any reason you cannot be heard, please submit written comments to the CalSAFER portal at calsafertsc.ca.gov. Or through the DTSC Regulations email address at regs@dtsc.ca.gov or through the postal system.

For the record, today is May 15th, 2020 and the

1 time is 9:02 AM, Pacific Standard Time.

2 Under the provisions of the Administrative
3 Procedure Act, this is the time and place set for the
4 presentation of statements, arguments and contentions,
5 orally or in writing for or against the Department's
6 proposal to amend California Code of Regulations, Title 22,
7 Division 4.5, Chapter 55 by adding section 69511.4 and
8 amending Sections 66260.11 and 69511.

9 This proposal pertains to listing Priority
10 Products under the Safer Consumer Products Regulations
11 approved by the Office of Administrative Law and filed with
12 the Secretary of State on August 28th, 2013.

13 The entire proceedings will be recorded. The
14 recording, as well as any exhibits or evidence presented at
15 this hearing will be incorporated into the rulemaking file
16 and will be reviewed prior to the final approval of the
17 regulations by the Department and the Office of
18 Administrative Law.

19 The purpose of today's hearing is to accept
20 public comment. Persons who wish to speak today should
21 press star 1 on their telephone key pad and the operator
22 will place them in the queue. Speakers will be heard in
23 the order of the queue. Anyone else wishing to speak at
24 the hearing will have an opportunity after the persons in
25 the queue have been heard.

1 Persons presenting testimony at this hearing will
2 not be sworn in, nor will we engage in cross-examination of
3 those providing public comment. The Department will not
4 respond to comments made today, but will address all
5 comments in writing and include them as part of the
6 rulemaking record available to the public.

7 We ask that you restrict your comments to the
8 regulations being considered today.

9 You may submit written comments to us through the
10 Department's Safer Consumer Products Information Management
11 System, also referred to as CalSAFER, at
12 calsafer.dtsc.ca.gov until 11:59 p.m. Pacific Standard Time
13 tonight.

14 You may also email your comments to
15 regs@dtsc.ca.gov. You may also provide written comments to
16 the following address, which is also provided in the public
17 notice. The Department of Toxic Substances Control, Office
18 of the Legislation and Regulatory Review, PO Box 806,
19 Sacramento, California 95812-0806. Comments postmarked
20 with today's date will be considered to be received by
21 today's date.

22 The proposed regulations were duly noticed in the
23 California Regulatory Notice Register and copies of the
24 notice, proposed regulation text and the Initial Statement
25 of Reasons were made available to interested parties who

1 requested such notice. The proposed regulations are also
2 available as proposed regulations through the Department's
3 website, www.dtsc.ca.gov and at the Department's
4 headquarters office, regional offices, the state library
5 and depository libraries.

6 Persons wishing to speak at this hearing should
7 have indicated their intent to speak as witnesses and be
8 placed in the queue. Testimony will be heard in the order
9 of the queue. If you have not yet indicated your intent to
10 speak, press star 1 and the operator will place you in the
11 queue and you will have an opportunity to speak after the
12 speakers in the queue have been heard.

13 The list of participants of this call and a list
14 of those submitting written comments will be used to notify
15 interested parties of any post-hearing changes to the
16 proposed regulations. Please note that unless you
17 specifically request notification by mail, we will be using
18 email addresses to notify interested parties of any post-
19 hearing changes to the proposed regulations.

20 To enable the audience to hear and to ensure that
21 your comments are entered into the record, we ask the
22 speakers to speak when called upon by the operator. Please
23 begin by stating your name and the organization you
24 represent. Please spell your last name and indicate the
25 proposed regulatory section that each comment addresses.

1 We also ask that if you are submitting written
2 comments, in addition to your oral comments, either limit
3 your oral comments to those items not covered in your
4 written comments or summarize your written comments.

5 With that, let us begin to hear comments on the
6 proposed regulations.

7 The first witness in the queue to testify is
8 Melody LaBella. Operator, please open the line for Melody.

9 MS. LABELLA: Hi. Good morning. Can you hear
10 me?

11 ACTING DEP. DIRECTOR PALMER: Yes, we can hear
12 you.

13 MS. LABELLA: Great. Thank you. So I'm Melody
14 LaBella, L-A-B-E-L-L-A. And I'm the Resource Recovery
15 Program Manager for Central Contra Costa Sanitary District.
16 We're a wastewater collection and treatment agency serving
17 about 500,000 residents in Central Contra Costa County,
18 which is in the Eastern portion of the San Francisco Bay
19 Area.

20 And I'm participating here this morning to
21 support the DTSC in this proposed listing under the Safer
22 Consumer Products Program for PFAS in carpets and rugs.

23 So many harmful chemicals in consumer products
24 have a pathway to the public wastewater system and PFAS in
25 carpets and rugs is no exception. And just to give some

1 perspective, this pathway to wastewater for harmful
2 chemicals in consumer products involves what gets flushed
3 down the toilet, rinsed down indoor drains, or directed in
4 some way to the public sewer system such as popping a
5 manhole cover in the street and discharging a liquid stream
6 that way. It can come to us in many different ways.

7 As I detailed in our comment letter, when carpets
8 and rugs are cleaned the liquid waste stream generated from
9 that activity is almost always directed to a public sewer
10 system. And that is yet another way that PFAS can be
11 transferred into our systems.

12 Our treatment plants aren't designed to remove
13 highly stable chemicals like PFAS and to upgrade our plants
14 to do so would cost our treatment plant alone hundreds of
15 millions of dollars, just in capital to do so. So any PFAS
16 coming into our plant remains in the treated effluent
17 discharged to waterways and in the solid streams that are
18 produced.

19 Beyond that, PFAS can move on in our recycled
20 water supplies. As our drought-prone state moves toward
21 the widespread adoption of advanced treated wastewater to
22 augment public drinking water supplies, removing harmful
23 chemicals in consumer products that can reach public
24 wastewater systems is more crucial than ever.

25 Depending where you're at in our state, what you

1 flush or rinse down your indoor drain today could become
2 part of the source supply for the water that you drink
3 tomorrow. It took us more than 70 years to work PFAS into
4 so many consumer products and now it's time to work it back
5 out, so let's begin.

6 Thank you so much.

7 ACTING DEP. DIRECTOR PALMER: Thank you, Melody,
8 for your comments.

9 The next witness in the queue to testify is
10 Suzanne Hume. Operator, please open the line for Suzanne.

11 OPERATOR: The line is open. Ms. Hume, please
12 unmute your phone. Your line is open. Suzanne Hume, we're
13 not able to hear right you. If you could pick up your hand
14 set or check your mute button. It looks like her line
15 disconnected.

16 ACTING DEP. DIRECTOR PALMER: Okay. It looks, at
17 this point like there's no one else in the queue. If there
18 is anyone who would like to present additional comments
19 related to this rulemaking, please press star 1 now on your
20 telephone to indicate that you wish to join the queue and
21 that you have a comment to make.

22 We'll wait a few minutes, seeing if Suzanne calls
23 back in or if anyone else would like to comment.

24 ACTING DEP. DIRECTOR PALMER: At this time, it

1 looks like the next person in the queue is Joanne Brasch.

2 Operator, please open the line for Joanne.

3 OPERATOR: Joanne, your line is open.

4 MS. BRASCH: Thank you very much. My name is
5 Joanne Brasch of the California Product Stewardship
6 Council. We are a non-profit in California that represents
7 a lot of local governments (indecipherable) who are engaged
8 in end-of-life solutions for products in our waste stream.

9 Today, we would like to add our support for DTSC
10 in listing carpet with PFASs as a Priority Product under
11 the Safer Consumer Products Program. We also would like to
12 suggest including outdoor carpets and we'd like to cite
13 action that's been happening at the local level to inspire
14 more action at the state level.

15 As detailed in our public comment letter, to be
16 uploaded to the website, there have been specific local
17 ordinances and programs specifically designed to address
18 this Product of Concern.

19 Again, thank you very much to DTSC for their hard
20 work that was done to get us to this point.

21 ACTING DEP. DIRECTOR PALMER: Thank you, Joanne,
22 for your comments.

23 Next in the queue is Anna Reed. Operator, please
24 open the queue for Anna.

1 OPERATOR: Anna, your line is open.

2 MS. REED: Good morning, this is Anna Reed with
3 Natural Resources Defense Council. We also support SCP's
4 proposed listing of carpets and rugs containing PFAS as a
5 Priority Product. The profile does an excellent job of
6 supporting this product-chemical combination as a Priority
7 Product. It provides both potential adverse effects and
8 potential exposure, both are well documented. And our
9 comments will also be submitted in written form in further
10 detail. Thank you.

11 ACTING DEP. DIRECTOR PALMER: Thank you, Anna,
12 for your comments.

13 Next in the queue is Greg Kester. Operator,
14 please open the queue for Greg.

15 OPERATOR: Greg, your line is open.

16 MR. KESTER: Thank you. I represent the
17 California Association of Sanitation Agencies, CASA. And
18 we also strongly support the DTSC proposal to list carpets
19 and rugs containing PFAS as Priority Products. Many of
20 these chemicals have a pathway to the public sewer system.
21 In particular, anything applied to carpeting and rugs is
22 the liquid waste being generated from residential and
23 commercial (indecipherable) public wastewater systems.
24 These treatments are (indecipherable).

1 (Background noise drowns out audio.)

2 Wastewater treatment plants provide
3 (indecipherable) services that are (indecipherable) by
4 manufacturers such as in the (indecipherable) textile
5 industries. And we strongly agree with the source control
6 measures that proposed by DTSC rather than imposing
7 unnecessary (indiscernible) on the wastewater and other
8 (indecipherable). So thank you very much.

9 ACTING DEP. DIRECTOR PALMER: Thank you, Greg,
10 for your comments.

11 At this time, the queue does not show that anyone
12 else wishes to speak. If there's anyone who would like to
13 speak and add additional comments related to this
14 rulemaking please press star 1 to indicate that you would
15 like to be in the queue. It is now 9:15. We will wait
16 until 9:20 to see if anyone else would like to add comments
17 at this hearing.

18 (Pause for additional comments.)

19 ACTING DEP. DIRECTOR PALMER: Okay, the next in
20 the queue is Suzanne Hume. Operator, can you please open
21 the line for Suzanne.

22 OPERATOR: Yes. Suzanne, your line is now open.

23 MS. HUME: Hi, everyone. And thank you for this,
24 it is so important. My name is Suzanne Hume. And I'm the
25 Founder and Educational Director for CleanEarth4Kids.org.

1 We work to protect clean air, clean water and nontoxic
2 lands.

3 We're asking California to please classify PFAs
4 in carpets and synthetic turf, artificial turf, fake grass,
5 however you want to call it, as hazardous. We must do this
6 to protect our children, our athletes, our workers, our
7 water.

8 Thank you so much for taking this important
9 action. PFAs must be classified as a Priority Product for
10 a variety reasons. Also we know synthetic turf carpets are
11 flammable, which automatically would put them in as a
12 hazard, a physical hazard. We worry about risk of
13 inhalation, dermal, many others. So we will be submitting
14 our written comments today. And please support our kids,
15 our water, our air and list PFAs and synthetic turf,
16 artificial grass, however you want to call it as a Priority
17 Product.

18 Thank you so much for all of your tireless work.
19 Have a great day.

20 ACTING DEP. DIRECTOR PALMER: Thank you, Suzanne,
21 for your comments.

22 At this point, there are no other people in the
23 queue. We will wait a few minutes to see if anyone else
24 would like to comment. If you would, please press star 1 on

1 your phone to indicate so and we will put you in the queue.

2 (Pause for additional comments.)

3 ACTING DEP. DIRECTOR PALMER: We're going to keep
4 the line open for a few minutes, even though no one has
5 indicated they wish to speak, because we want to ensure
6 that anyone who wishes to speak has an opportunity. I
7 would also remind you that if for some reason you are
8 having difficulty entering this conference, you have other
9 options. You could comment in writing by either sending
10 your comments to our CalSAFER portal online, to our email
11 address or using the US mail as I indicated in the opening
12 statement.

13 Operator, it appears that Suzanne Hume wants to
14 make another comment, could you open the line for her?

15 OPERATOR: Okay, one moment. All right,
16 Suzanne's line is open.

17 MS. HUME: Okay, hi. Thank you, CleanEarth4Kids.
18 So sorry, Suzanne Hume calling. When you had said before
19 that there weren't any other callers, I had already called,
20 so I called again. I just want to make sure that everyone
21 is heard, because there were other people on the list that
22 said they wanted to call in.

23 Thank you so much for your time. I appreciate
24 it. Yes, so my original comment stands. I don't want to
25 take up time. Please list PFAs as Priority Products

1 including carpets and synthetic turf. Yes, very important,
2 thank you so much.

3 ACTING DEP. DIRECTOR PALMER: Thank you, Suzanne,
4 for your comments.

5 And we will keep the line open for a few more
6 minutes. No one has indicated that they wish to speak at
7 this time, but we'll wait around a little to see if anyone
8 would like to contribute.

9 (Pause for additional comments.)

10 ACTING DEP. DIRECTOR PALMER: Operator, it looks
11 like the next person in the queue is Diane Wolkey. Please
12 open the line for Diane.

13 OPERATOR: Ms. Wolkey, your line is now open.

14 (Background noise drowns out speaker on and off.)

15 MS. WOLKEY: (Indecipherable.) as well as an
16 activist in California. (Indecipherable) please emphasize
17 including in synthetic turf (indecipherable) these
18 products, synthetic turf is carpeting. It is manufactured
19 in the same places that conventional indoor carpet is
20 manufactured. It's used indoors as well as outdoors. It's
21 been proven to contain PFAS in multiple laboratory studies.
22 There will be more studied published shortly.

23 So I'm asking that you please support cleaning up
24 our environment, protecting our kids and include synthetic

1 turf in your regulatory language. Thank you so much.

2 ACTING DEP. DIRECTOR PALMER: Thank, you Diane,
3 for your comment.

4 Again, at this time there's no one identified
5 that they'd like to speak, but we'll wait a few minutes to
6 ensure that anyone who wishes to speak has an opportunity.

7 (Pause for additional comments.)

8 ACTING DEP. DIRECTOR PALMER: The next person
9 wishing to speak is Gail Brice. Operator, please open the
10 line for Gail.

11 OPERATOR: Gail, your line is now open.

12 MS. BRICE: Hi, I'm Gail Brice. I've been
13 involved in carpet recycling for the last 10 years. And I
14 also serve on the stewardship committee, the advisory
15 committee, but these comments are my own.

16 I have submitted comments and I just wanted to
17 highlight here that the need to, when looking at end of
18 life of carpets to fully ban carpet from landfills in
19 California, because they are a source of PFAS in the
20 leachate, which is often sent to wastewater treatment
21 plants. But rather there should be significant efforts and
22 resources dedicated to carpet recycling. And ensuring
23 that, this is a much more advantageous alternative when it
24 comes to control of PFAS, can be done safely. And that the
25 resources have provided and the regulations are stated such

1 that the end of life focuses on recycling and reuse of
2 carpets rather than disposal to landfills.

3 And of course basically right now, there's not
4 any incineration of carpeting in California. And that
5 should continue to be done too. All right, thanks a lot.

6 ACTING DEP. DIRECTOR PALMER: Thank you for your
7 comments, Gail.

8 The next speaker in the queue is John Bottorff.
9 Operator, please open the line for John.

10 OPERATOR: John Bottorff, your line is now open.

11 MR. BOTTORFF: Hi. My name is John Bottorff with
12 CleanEarth4Kids. And the CDC says that PFA exposure may
13 interfere with the body's natural hormones, increase
14 cholesterol levels, affect the immune system and increase
15 the risk of some cancers. The CDC recommends 10 times
16 lower the amount of exposure than the EPA.

17 As any material with PFA (indecipherable)
18 particularly (indecipherable) carpet, poses a risk to
19 health of the public. Turf particularly represents
20 potential hundreds of thousands of pounds of plastic, which
21 will end up in our landfills. This is not safe. And it
22 definitely poses a risk to children. I absolutely ask the
23 DTSC to add turf and all plastic carpeting into this
24 regulation. Thank you.

25 ACTING DEP. DIRECTOR PALMER: Thank you, John,

1 for your comments.

2 Again, there's no one in the queue at this time,
3 but we will wait a few minutes to see if anyone would like
4 to add comments. Reminder that if you'd like to comment,
5 please press star 1 on your phone and you'll be placed into
6 the queue.

7 (Pause for additional comments.)

8 ACTING DEP. DIRECTOR PALMER: The next person in
9 the queue is Heidi Sanborn. Operator, please open the line
10 for Heidi.

11 OPERATOR: Heidi Sanborn, your line is now open.

12 MS. SANBORN: Thank you. This is Heidi Sanborn,
13 the Director of the National Stewardship Action Council.
14 We have sponsored two bills on carpet in California that
15 have both been signed by the Governor, the last one being
16 AB 729 in 2019. It introduced the first eco-modulated fee
17 in the country, which would put a price facing the consumer
18 on carpet that would tell the consumer which carpets are
19 less toxic, more recyclable and those that are not. The
20 higher the fee, the worse the environmental impact. And
21 the goal was to drive toxics out of carpet.

22 It is absolutely, we support the comments of Gail
23 Brice and the CleanEarth4Kids and others who have commented
24 that the astroturf absolutely needs to be included in this.

1 These products absolutely need to be listed. The people
2 are unaware of their exposures. The way it is now is that
3 it is unacceptable. And these are dangerous chemicals.

4 So we strongly support the listing of these
5 products, and the commenter about the disposal being the
6 problem is absolutely right. We're seeing PFASs showing up
7 in landfill leachate all over the country. And it's
8 actually closing landfills and putting liability on
9 landfill operators, which is unsustainable in terms of cost
10 etcetera.

11 So we support the state's efforts to list these
12 products.

13 ACTING DEP. DIRECTOR PALMER: Thank you, Heidi,
14 for your comments.

15 Operator, it looks like John -- whoops, he
16 disappeared. Again, there is no one in the queue at this
17 point, but we will wait a few minutes to see if anyone
18 would like to add comments. Please press star 1 on your
19 phone if you would like to be entered into the queue.

20 (Pause for additional comments.)

21 ACTING DEP. DIRECTOR PALMER: Okay, thank you
22 everyone for your comments. Let the record show that no
23 one else has indicated they wish to speak. Therefore, I am
24 closing the oral testimony portion of this hearing.

That concludes this hearing. Thank you for your participation.

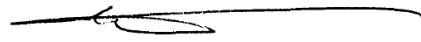
— — ○ ○ — —

REPORTER'S CERTIFICATE

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were reported by me, a certified electronic court reporter and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

IN WITNESS WHEREOF, I have hereunto set my hand this 19th day of June, 2020.



PETER PETTY
CER**D-493
Notary Public

TRANSCRIBER'S CERTIFICATE

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were transcribed by me, a certified transcriber and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

IN WITNESS WHEREOF, I have hereunto set my hand this 19th day of June, 2020.



Myra Severtson
Certified Transcriber
AAERT No. CET**D-852