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COSMETIC TOILETRY & FRAGRANCE ASSOCIATION OF SOUTH AFRICA

Draft Regulations to prohibit the use; production; distribution; sale; import; and export of plastic microbeads; and products containing microbeads

On 8 August 2025, the Department published the drat Regulations for public comment. This followed a bilateral engagement initiated by the DFFE to discuss the status of microbeads in the South African cosmetics and personal care sector. It was noteworthy that the draft that was published was substantially different to what had been alluded to being regulated, and several aspects of the draft required reconsideration. CTFA engaged with members and submitted input for consideration by and further engagement with the DFFE (below).

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CTFA comments regarding Government Notice No. 6493 in Government Gazette 53137: "Draft regulations to prohibit the use, production, distribution, sale, import, and export of plastic microbeads, and products containing microbeads"

CTFA is the industry trade association representing over 80% of cosmetic companies in South Africa. These range from major multi-national cosmetic manufacturers and brands to medium and small companies. As the industry association in South Africa, CTFA has overseen the self-regulatory system for cosmetics for 31 years. Industry member companies are committed to the continued development of safe products for the South African consumer.

Introduction

- CTFA supports the DFFE's intention to broadly prohibit microbeads in certain applications and certain products containing microbeads when intentionally added. Although the cosmetic and personal care industry in South Africa is believed to be already compliant with international best practise in this regard (having proactively removed microbeads from cosmetics over the last couple of years), it is important to comment on the draft regulation to ensure that there is alignment throughout the intended prohibitions and that the requirements are implementable.
- There is however some confusion regarding the intention and specific requirements of parts of the draft regulation that require further consideration by the Department. Specific, detailed comments are provided in the table below, along with proposals for consideration.
- Please indicate if the Socio-Economic Impact Assessment Study Report is available for review. Although CTFA speaks for the majority of industry, it does not cover 100% of companies and activities, and a prohibition is an all-encompassing regulation.
- CTFA does not support moving forward with the draft regulation in its current state – further revisions and discussions are required as there

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Reg. no: 2022/470099/08

are clear inconsistencies and legal ambiguities that cannot just be corrected, but require further discussion. For example, the scope is unclear throughout the draft, and some requirements do not make any sense and are out of scope of the regulation. It is unclear what is being regulated and what is required of the person to be regulated. The policy intention is unclear and it is recommended that this draft regulation is revised extensively and republished for public comment.

- CTFA notes that these regulations are being developed in the absence of the "International Legally Binding Treaty on Plastic Pollution, including the Marine Environment", as well as on the Minister's media announcement. Ideally, South Africa should align with international efforts and activities in this regard. For example, perhaps a different definition of "microbeads" is settled upon internationally – how will DFFE align if there is already this regulation in place? Indeed, amendments could be made to the regulation but it may impact those already regulated unfairly. An example of this is the repetitive changing of goalposts and the need for different feasible alternatives to be soured and processes changed to match. All these impacts negatively affect competitiveness and ultimately the economy.
- Although DFFE's proactivity is acknowledged, the draft regulation could have unintended socio-economic consequences itself.

General comments

- It is CTFA's understanding that the DFFE's intention is to regulate the listed activities with regards to microbeads in certain applications and certain products containing microbeads when intentionally added to products.
- Even if the meaning of a word is assumed or generally understood, there may be a need to define it in legislation. Specific comments below provide proposals regarding how clarity can be achieved.
- It is noted that many of the definitions are aligned with other regulations provided for by the National Environmental Management Act (e.g. Persistent Organic Pollutants phase out and prohibition regulations). Although alignment is supported for the purposes of general regulatory alignment, there should not be blind adoption without making sure the words and definitions are still fit-for-purpose. Some of the changes proposed have also been proposed for amendments to the POP regulations, for example.

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Specific comments

Content	Comment	Proposal
Title DRAFT REGULATIONS TO PROHIBIT THE USE, PRODUCTION, DISTRIBUTION, SALE, IMPORT, AND EXPORT OF PLASTIC MICROBEADS, AND PRODUCTS CONTAINING MICROBEADS	• Please align the wording used. • Please note the comment below regarding the deletion of the word "distribution".	• "[DRAFT] REGULATIONS TO PROHIBIT THE USE, PRODUCTION, SALE, IMPORT, AND EXPORT OF PLASTIC MICROBEADS, AND PRODUCTS CONTAINING PLASTIC MICROBEADS"
Introductory Text I, Dion Travers George, Minister of Forestry, Fisheries and the Environment, hereby, in terms of section 44(1)(a), (aA), (aB), (b) and (1A) of the National Environmental Management Act, 1998 (Act No. 107 of 1998), publish my notice of intention to make Regulations to Prohibit the use, production, distribution, sale, import, and export of plastic microbeads, and products-containing microbeads, as set out in the Schedule hereto.	• To align with the above intention, please refer to the proposal alongside. • Please note the comment below regarding the deletion of the word "distribution".	• …make regulations to Prohibit the use, production, sale, import, and export of plastic microbeads, and products containing plastic microbeads.
Definitions **"cosmetics"** means any article or substance intended to be rubbed, poured, sprinkled or sprayed on or otherwise applied to the human body for purposes of cleansing, beautifying, promoting attractiveness or improving or altering the appearance, and includes any part or ingredient of any such article or substance;	• There is an existing definition of "cosmetics" according to the Foodstuffs, Cosmetics and Disinfectants Act (FCDA) that is	• Delete the proposed definition and replace it with: "cosmetic" means that which is defined in the Foodstuffs, Cosmetics and

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	under the mandate of the Department of Health. • The definition is: "means any article, preparation or substance (except a medicine as defined in the Medicines and Related Substances Act, 1965 (Act No. 101 of 1965)) intended to be rubbed, poured, sprinkled or sprayed on or otherwise applied to the human body, including the epidermis, hair, teeth, mucous membranes of the oral cavity, lips and external genital organs, for purposes of cleansing, perfuming, correcting body odours, conditioning, beautifying, protecting, promoting attractiveness or improving or altering the appearance, and includes any part or ingredient of any such article or substance;". • Do not provide a different definition to what exists already in South African legislation. • Do not repeat the existing definition. Simply directly refer to the definition in the FCDA.	Disinfectants Act (Act 54 of 1972), as amended. • Including the words “as amended” will allow any updates made to the definition in the FCDA to automatically be applicable to this regulation.

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	• Note for the comment below regarding “toiletries” - toiletries are included in the definition of “cosmetics”.	
Add a definition for “cleaning products”	• Cleaning products are included in the scope of the regulation when it comes to microbeads – they should therefore also be defined.	• Not for CTFA to propose.
"distribution" means a direct or indirect transfer of a listed substance by a company or individuals for the benefit of one or more users or companies;	• The definition of "distribution" should also make reference to a change in location, for example by transportation. • Transportation is closely related to distribution, in this case. • Even considering how the definition is currently proposed, there should be consideration of whether actual transportation can be covered by DFFE or not – transportation is not the DFFE’s mandate. • In summary, "distribution" should not be included as it complicates the regulation unnecessarily - if the other activities are regulated then distribution cannot take place.	• Delete the word from this section, and delete all references to distribution in the regulations.

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"export" concerning the Republic means to take out or transfer, or attempt to take out or transfer, from a place within the Republic to another country or international waters;	• It is important to have intragovernmental alignment wherever possible. • Align to the existing definition (SARS).	• The SARS definition is (slightly revised for context):"exportation" means the act of taking goods out of the Customs territory of South Africa.
"import" in relation to the Republic means to land on, bring into or introduce into the Republic, or attempt to land on, bring into or introduce into the Republic, and includes to bring into the Republic for re-export to a place outside the Republic;	• It is important to have intragovernmental alignment wherever possible. • Align to the existing definition (SARS).	• The SARS definition is (slightly revised for context): "importation" means the act of bringing or causing any goods to be brought into the Customs territory of South Africa.
"plastic microbeads" are tiny, solid plastic particle that is less than 5mm in size, used in various products such as cosmetics, personal care items, pesticides, toiletries, and cleaning products. These include synthetic polymer microparticles for use as an abrasive, namely to exfoliate, polish or clean.	• Compared to the informal pre-gazette draft regulation shared confidentially with CTFA, the Department has increased the scope of the intended regulation by including words such as "synthetic polymer microparticles". • "Synthetic Polymer Microparticles" is the internationally accepted wording for the entire basket of "microplastics". Microbeads are a subset of microplastics. • The inclusion of "synthetic polymer microparticles" in the draft regulation is an error and must be deleted.	Replace the definition and align the entire regulation to the intended policy principle: "plastic microbeads" means any solid, non-biodegradable, water-insoluble, petrochemically derived synthetic particle that is less than 1 millimetre and that is intentionally added to cosmetics and cleaning products.

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Reg. no: 2022/470099/08

	• It is also clear from the rest of the draft regulation that the intention of the DFFE is to regulate plastic microbeads and their intentional addition to certain products. • Please note that “used” has a different meaning to “intentionally added”, so it is important to take note of the correct words to use in the draft regulation. • The CTFA’s proposal alongside reflects a best-fit definition for South Africa, given that there needs to be regulatory certainty for those implementing the regulations. • CTFA believes that the proposed definition alongside will suffice for the intended purpose, without the regulatory complexity for those regulating and those being regulated. • Furthermore, words such as "non-biodegradable"; and "synthetic" must also be used so the definition is more explicit.	
"**sale**" means offer, advertise, keep, transmit, consign, convey, or deliver to resell or exchange or dispose of to any person, whether for consideration or otherwise;	• The definition is very broad and repetitive in places.	• Delete the definition entirely.

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	• It even includes instances where goods are kept and not yet sold - so this includes the intention to sell (e.g. "keep"). • For example, the word "distribution" is used and defined - how is that activity different to "transmit"; "consign"; "deliver"? • Why is "resell" included? Reselling is "sale". • "dispose" has its own meaning in the National Environmental Management: Waste Act - it refers specifically to the waste management activity of disposal to landfill. What about other waste management activities? However, waste management must not be included as it is covered by the National Environmental Management: Waste Act. • The National Environmental Management Act does not define this, so from a principled primary legislative perspective it was not deemed necessary to define –	• Alternatively, consider the following simple dictionary definition of "sell" and "sale": "The process of putting something up in the market for individuals or entities to purchase;".

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	normal dictionary meaning can apply for these regulations too. • The definition should be deleted, alternatively a normal dictionary definition (given alongside) can be used to avoid confusion. There is no need for a special definition.	
"the act" means the National Environmental Management Act, 1998 (Act No. 107 of 1998);	• Please note that amendments must be taken into account.	• Add: ", as amended" at the end of the text.
"toiletries" means any personal hair, skin, teeth, or mouth care products for cleansing or hygiene, including exfoliants and any of those products; and	• "Toiletries" are considered to be included in the definition of "cosmetics". • Please refer to the comments given above for the definition of "cosmetics".	• Delete the definition of "toiletries".
"use" means to utilise microbeads for a similar or different purpose with the intention to achieve the desired result.	• To avoid complexity there is no need to formally define this word as it will have a normal dictionary meaning.	• Delete the definition of "use".
2. Purpose and Application of the Regulations 1. The purpose of these Regulations is to prohibit the use, production, distribution, sale, import, and export plastic microbeads, and products containing microbeads. 2. These Regulations apply uniformly to any person who use, produce, distribute, sell, import, and export plastic microbeads, and products containing microbeads within the Republic of South Africa.	• This version of the draft seems to expand the scope by including "synthetic polymer microparticles" (SPMs) in the definition of "plastic microbeads". • SPMs are widely understood to be "microplastics", not "microbeads". • The purpose is given to be the regulation of plastic microbeads in	• "1. The purpose of these regulations is to prohibit the use, production, sale, import and export of plastic microbeads and products containing plastic microbeads.". • Delete regulation 2(2).

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Reg. no: 2022/470099/08

	certain applications, not the broader issue of microplastics. • Please refer to the comments made above under the definition of "plastic microbeads", as well as the proposals as this is also relevant to this section of the regulations. • Other comments made above (e.g. remove the word "distribute" should also be considered to align the "Purpose" accordingly. • Regulation 2(2) is actually not required and may cause confusion as to why it is included. regulation 2(1) stipulates the prohibition.	
3. General prohibitions No person may use, produce, distribute, sell, import, and export plastic microbeads, and products containing Microbeads.	• Other comments made above (e.g. remove the word "distribute") should also be considered to align the General prohibitions" accordingly.	• "No person may use, produce, sell, import, and/or export plastic microbeads, and products containing plastic microbeads."

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Reg. no: 2022/470099/08

4. Monitoring and Evaluation 1. Any person who uses, produces, distributes, sells, imports, and exports plastic microbeads, and products containing microbeads within the Republic of South Africa must; (a) Take a sample of microbeads in Cosmetic industries on annual or biennial basis. (b) Test for microbeads in Cosmetic industries on annual or biennial basis. (c) Label, use signage or unique code of cosmetic products that are free from microbeads. (d) Conduct public education and awareness on labelling and signs used, (e) Register the activities that are free from microbeads impacts. (f) Provide Microbeads Incident Reporting media	• It is assumed that the intention is that this is only for those making use of the transitional timeframe that is given in draft regulation 6. regulation 4 should state this for clarity, and regulation 6 should be moved to be after regulation 3, but before regulation 4. However, current regulation 4 should be deleted. • It is not clear how these actions (a) – (f) will assist in any way. It is supported that the person who is still engaging in the activity under the transitional provision should notify the DG as given in regulation 6(1) and 6(2). • Regulation 6 can be broadened to include a phase-out plan in the Notification to the DG. The Plan does not have to be an approval process – just a notification. In this way there is no chance of the phase-out plan not being implemented or requiring extension. It is simply to show how the transitional provision will be used to remove all of the	Delete the entire regulation 4.

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Reg. no: 2022/470099/08

	items to be prohibited at the 24-month mark. • Further comments to the specific requirements are given below, to justify for their removal – they do not make sense: ○ (a): The DG will be notified so sampling is not required. This clause is addressed at an industry level – the regulated person cannot be expected to do this, and it should not be required. Delete this requirement. ○ (b): The DG will be notified so testing is not required. This clause is addressed at an industry level – the regulated person cannot be expected to do this, and it should not be required. Delete this requirement. ○ (c): There will and already are many	

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	products that do not contain plastic microbeads. It does not make sense to label them under a prohibition regulation (see Advertising Regulatory Board Code in this regard) – further information available on request. This should not be required. Delete this requirement. ○ (d): The phase out period will be being implemented, so the prohibition will be in effect. It is only where there are operations under the transitional period that there will be a minority of products (unlikely any cosmetics) on the market. Public education and awareness raising can be via the label and ingredients that	

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Reg. no: 2022/470099/08

	are included – this is already a requirement from the Consumer Protection Act's requirements. This should not be a duplicative requirement. Delete this requirement. ○ (e): "activities free from microbeads impacts"- what does this mean – thousands of activities are free for these – who should register, with who, how and why? This should not be required. Delete this requirement. ○ (f): What is the intention? This should not be required. Delete this requirement.	
5. Offences and penalties 1. A person commits an offence if that person – (a) contravenes these Regulations; or (b) furnishes false or misleading information. 2. A person convicted of an offence in terms of subregulation (1) is liable on conviction to imprisonment for a period not exceeding five years or a fine not exceeding 5 million Rands, and in the case of a second or subsequent conviction, imprisonment for a period not exceeding ten years or to a fine not exceeding 10 million Rands; and in both instances to both a fine and such imprisonment.	• Normally, specific regulations are mentioned that indicate where offences and penalties will apply - this will be an area for discussion once i) there is certainty regarding what is being regulated; ii) how the	• Reconsider the way this draft regulation intends to regulate. • Add "Knowingly" before "furnishes".

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	DFFE intends to regulate; and iii) there has been a redraft published for further public comment. • regulation 5(2) is aligned with Section 49B of the National Environmental management Act. The Act does not provide for regulation 5(1)(b) but it is supported – please add the words "Knowingly" as has been done for other legislation.	
6. Transitional provision Despite the provisions of regulation 3 of these regulations: 1. A person who, at the time of the commencement of these regulations, has the plastic microbeads may continue to use, produce, distribute, sell, import, and export plastic, microbeads and products-containing microbeads for 24 months from the commencement of these regulations. 2. A person who wishes to rely on subregulation (1) in order to continue to use, produce, distribute, sell, Import, and export plastic microbeads, and products-containing microbeads after the commencement of these regulations must notify the Director-General in writing thereof within 30 days of the commencement of these regulations 3. The notification contemplated in subregulation (2) must: (a) Identify the quantities of plastic microbeads and products-containing plastic microbeads that the person possesses; (b) be accompanied by a phase-out plan to be implemented within the 24 months; and (c) within 6 months after the 24-month lapse, submit a report providing evidence aligned with the phased-out plan.	• This regulation needs to be revised to align with the policy intention – CTFA's recommendation is to cover "plastic microbeads" as given in the above comments. • This regulation requires rewording for clarity. Please refer to the proposals alongside. • "possession" is not included in the regulation and should not be a regulated activity here. • No changes are recommended to subregulation (3), although it should actually not be necessary. The DFFE can wait for the 24 months to lapse	1. Despite the provisions of regulation 3 of these regulations, a person who, at the time of commencement of these regulations, is engaging in one or more of the activities listed in regulation 3, may continue with those activities for 24 months from the commencement of these regulations. 2. A person who wishes to rely on subregulation (1) must notify the director-General in writing thereof within 30 days of the commencement of these regulations. • Delete subregulation (3).

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	and undertake compliance monitoring and enforcement.	

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