



April 11, 2025

Honorable Assemblymember Connolly  
California State Assembly  
1021 O Street, Ste. 5240  
Sacramento, CA 95814

Re: **AB 823- Microbeads Ban- Opposed unless Amended**

Assemblymember Connolly:

On behalf of the undersigned organizations, we are respectfully opposed unless amended to AB 823, which would ban plastic microbeads from cosmetic and cleaning products by 2030, and because of how the legislation is currently drafted, would also bring microplastics into scope. All our organizations, and their member companies, are concerned with the impacts of microplastic pollution on our environment and public health. We believe there is an opportunity to eliminate intentionally added microplastics from cleaning products and personal care products, if afforded the opportunity and pathway necessary to innovate and to provide quality products that improve the lives of Californians. **Unfortunately, AB 823, as currently drafted, would unnecessarily ban a significant number of cosmetic and cleaning products in 2030. For this reason, we are opposed unless amended.**

### **Amendment Request**

In response to conversations with the author and sponsors of AB 823, we have suggested deleting section 42362 (c), the ban on non-abrasive microbeads in cosmetic and cleaning products. With this amendment, AB 823 would still ban abrasive microbeads from leave-on cosmetics and cleaning products, making California the first state in the nation to ban abrasive plastic microbeads from cleaning products. Additionally, we believe it more clearly captures the author's intent- to ban the use of solid plastic microbeads, as the industry and consumers understand them to be, rather than complex polymers which provide a myriad of benefits to consumers and are not the materials found in the human body.

If the above amendment is not made to AB 823, we must revert to our original amendment requests detailed below.

### **Scope of Products**

We respectfully note that AB 823 presents a degree of ambiguity by using the term "microbeads". This lack of clarity creates uncertainty for stakeholders attempting to assess the bill's scope. We urge the author to clarify the targeted "microplastics", ensuring alignment with scientifically sound definitions and international regulatory frameworks. By doing so, AB 823 can more effectively address explicit environmental concerns while providing the regulated community with the necessary guidance to comply and innovate responsibly.

Of note, the broad “plastic microbead” definition brings materials into scope that have nothing to do with plastic pollution and that is why the European Union (EU) added exemptions for things like water solubility yet kept the broad definition. Based on data from the EU, microplastic pollution from all intentionally added industry sources—not just the products covered in AB 823—amounts to only 0.2% of the total microplastic burden in Western Europe.<sup>1</sup> When broken down further, the products covered by AB 823 would account for only 0.0414% of microplastic burden in Western Europe. Unsurprisingly, the California Ocean Protection Council in their 2022 Statewide Microplastics Strategy identified the major contributors to microplastics pollution in California and nearly all were secondary microplastics, the breakdown of larger plastic materials, such as tires and textiles, not intentionally added microplastics/microbeads

It is beyond reasonable dispute that the major sources of plastic and microplastic pollution in California are NOT in any way associated with products proposed for regulation under AB 823. Although the elimination of intentionally added microplastics covered by AB 823 will not eliminate or significantly reduce the sources of microplastics, nonetheless, our organizations are committed to taking meaningful steps to support the environment and public health, through science-based approaches. For this reason, we are innovating to meet internationally recognized testing standards to enable the use of the next generation of biodegradable materials.

### **Alignment with Regulatory Science**

Industry stakeholders, NGOs, academics, and regulators engaged in the EU for more than eight years as the EU’s regulatory body researched and reviewed the science, drafted, revised, and finalized their “Synthetic Solid Polymer Microparticle” restriction, to in part, address the use of intentionally added microplastics in consumer products.

While the adopted EU regulation will pose significant compliance challenges, it includes a pathway with extended compliance timelines that allow industry to research and develop alternatives, while also protecting the environment and public health while continuing to meet consumer demands for efficacious and affordable products., We ask you to amend AB 823 to align with the EU “Synthetic Solid Polymer Microparticle” regulatory process as a fair and economical microplastics solution for Californians.

### **Definitions**

AB 823 uses the definition of “Plastic microbead” from AB 888 (Bloom, 2015), which banned the sale of rinse-off cosmetic products containing microbeads used as exfoliants. The definition is overly broad because it includes the term “plastic” but does not define plastic. A definition of plastics is needed within the bill. Use of the current definition could lead to banning the use of natural polymers and materials that would degrade or solubilize. Inorganic polymers and natural polymers must be exempted. Without adding a detailed framework, ingredients like fumed silica and kaolin clays would be banned.

The EU’s definition of “synthetic solid polymer microparticle” may offer one additional definition, was the result of years of science-based discussions between the European Chemicals Agency (ECHA), industry, NGOs, and academia. The definition includes a minimum size threshold, a de minimis threshold, exemptions for inorganic and natural polymers, and international standards for biodegradable and soluble materials. If the goal of AB 823 is to ban intentionally added “synthetic polymer microparticles”, we urge you to utilize the EU’s definition of “synthetic polymer microparticle” with

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<sup>1</sup> European Chemicals Agency [ECHA] Annex VI Report Section 1.6.1 Annual Uses and Emissions

appropriate framework, derogations, exemptions, and testing criteria.

### **Timelines**

As currently drafted and the uncertainty regarding the materials impacted, AB 823 would remove a significant number of products from the California marketplace before 2028. By banning products based on the sale date, rather than the manufactured by date, companies will be forced to immediately stop selling new products into the state which fall within the scope of the bill. To meet the 2027 mandate, retailers will have only one year to sell through existing stock if AB 823 was signed into law. Likewise, the 2028 effective date, is not enough time to reformulate products, resulting in a dearth of available personal care and cleaning products for consumers.

Additional time is necessary to supply Californians with cleaning products, coatings, and cosmetics that meet the AB 823 guidelines as well as consumer demands for these products. The EU regulation recognizes the significant time needed to comply with a microplastics ban, which requires companies to source new materials and conduct additional product tests. Consequently, the EU regulation provides a variety of transition timelines for specific product categories ranging from four to eight years, recognizing the challenges to reformulate a vast universe of products. We urge AB 823 to include similar timelines to the EU regulation.

### **Biodegradable Solutions**

Biodegradation testing is an advanced science that can be applied to evaluate the persistence of microparticles and has been used for decades to inform development of materials for use in many products and applications that improve quality of life such as detergents, personal care products, agrochemicals, and pharmaceuticals. The EU regulation requires materials to meet specific internationally recognized test methods to demonstrate biodegradability so materials which do not truly biodegrade, are not permitted. The US EPA and all other countries with chemical control laws (such as the EU, Japan, Canada, China, and Australia) also rely upon these widely accepted biodegradable standards. For example, ASTM, OECD and ISO.

Decades of research have indicated that biodegradable materials that pass specific criteria outlined by standard methods bodies are not persistent and may be used where appropriate, as safer and more sustainable replacements for traditional plastic products.

The standardized test methods and pass criteria included in the EU regulation (Annex XVII) were fine-tuned through a rigorous public process with input from academia, regulatory agencies, NGOs, and industry. The resulting regulation outlines a comprehensive test scheme to ensure that any exemption must be scientifically based.<sup>2</sup> We urge California to join the EU and EPA to provide a pathway for solutions that involve more sustainable biodegradable polymers using internationally recognized standard methodologies.

### **Product-Specific Considerations**

Recognizing the diverse and innovative applications for intentionally added "synthetic polymer

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<sup>2</sup> Assessment and Committee for Socio-Economic Analysis Background Document to the Opinion on the Annex XV Report Proposing Restrictions on Intentionally Added Microplastics. <https://echa.europa.eu/documents/10162/b56c6c7e-02fb-68a4-da69-0bcbd504212b>

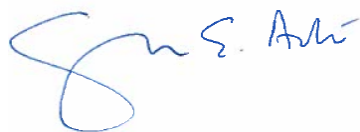
microparticles”, the EU regulation also includes targeted considerations for unique product situations. These considerations acknowledge the importance of certain product functionalities while still prioritizing environmental protection, and AB 823 should have the same considerations. Specifically:

- Solubility Standard: Provides an option to use materials that dissolve rapidly in water, and hence are not microplastics;
- Contained Synthetic Polymer Microparticles: Exempts synthetic polymer microparticles that are contained by technical means so that releases to the environment are prevented when used during their intended end use;
- Modified Properties: Exempts synthetic polymer microparticles whose physical properties are permanently modified during their intended end use, so the polymer no longer falls within the scope of regulation;
- Solid Matrix Incorporation: Exempts synthetic polymer microparticles that are permanently incorporated into a solid matrix during their intended end use, preventing their release into the environment;
- Industrial use only: Exempts synthetic polymer microparticles, as substances on their own or in mixtures for use at industrial sites, considering that any release are controlled by industrial methods.

Incorporating the appropriate guiding framework based on sound science and considerations of product-specific needs into AB 823 would align California's approach with internationally recognized standards and provide pathways for innovative product development, ensuring both environmental protection and consumer access to essential products. We stand ready to collaborate on this important legislation to find a pathway that is both protective of human health and the environment, while maintaining pathways for safer material innovation. Unfortunately, AB 823 in its current form would ban important consumer products and provide no pathway forward.

Thank you for your consideration of these comments. If you have any questions, please feel free to contact Nicole Quinonez [Nicole@mqadvocacy.com](mailto:Nicole@mqadvocacy.com) or Mandy Isaacs-Lee at [mandy@omnigr.com](mailto:mandy@omnigr.com) or any of the organizations listed below.

*On behalf of the following organizations:*



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