

ATTACHMENT**REVISIONS TO PROPOSED REGULATIONS
AUGUST 2013****DIVISION 4.5, TITLE 22, CALIFORNIA CODE OF REGULATIONS
CHAPTER 55. SAFER CONSUMER PRODUCTS**

**DEPARTMENT OF TOXIC SUBSTANCES CONTROL REFERENCE NUMBER: R-2011-02
OFFICE OF ADMINISTRATIVE LAW NOTICE FILE NUMBER: Z-2012-0717-04
OFFICE OF ADMINISTRATIVE LAW FILE NO: 2013-0718-03 S**

All of the text in these regulations is new language to be added to the California Code of Regulations as Chapter 55 of Division 4.5 of Title 22. Text shown in underline (for added text) or ~~strikeout~~ (for deleted text) reflects changes to the proposed regulations text submitted to the Office of Administrative Law as part of the final rulemaking file.

Only those sections (69501.3 and 69509.1) proposed for further revision are shown below.

Chapter 55. Safer Consumer Products

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§ 69501.3. Information Submission and Retention Requirements.

(a) Signatures. All documents required to be submitted to the Department under this chapter must be signed by the responsible individual in charge of preparing or overseeing the preparation of the information, and by the owner, or an officer of the company, or an authorized representative.

(b) ~~[Reserved]~~ Format. All documents submitted to the Department must be in English, and must be generated and submitted in a manner and in an electronic format accessible to the Department.

(c) Certification Statement. All documents required to be submitted to the Department under this chapter must include the following certification statement, signed by the owner or an officer of the entity submitting the document, whose responsibilities include product development, product safety, or related responsibilities pertinent to the document, and by the responsible individual in charge of preparing or overseeing the preparation of the information:

"I certify that this document and all attachments were prepared or compiled under my direction or supervision to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person(s) directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that submitting false information or statements is a violation of law."

(d) Due Dates. All provisions in this chapter requiring a document to be submitted to the Department within a specified time frame means that the document must be postmarked or submitted electronically by the end date of that time frame.

(e) Document Retention. A person who is subject to a requirement to obtain or prepare information, but who is not required to submit the information to the Department or has not yet been requested to submit the information to the Department, shall retain the information for a period of three (3) years following the date the person was required to obtain or prepare the information.

NOTE: Authority cited: Sections 25252, 25253, and 58012, Health and Safety Code.
Reference: Sections 25252 and 25253, Health and Safety Code.

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§ 69509.1. Department Review of Claims of Trade Secret Protection.

(a) ~~[Reserved]~~ Review of Support for Trade Secret Designation. The Department shall review a trade secret claim and supporting information for compliance with the requirements of this article before disclosing the information that is the subject of the trade secrecy claim.

(b) Additional Information Requirements.

(1) If the Department determines that information provided in support of a request for trade secret protection is incomplete or insufficiently responsive to permit a trade secrecy determination, the Department shall:

(A) Provide notice to the submitter of the Department's finding of insufficiency, and the basis therefor;

(B) Identify the specific area(s) for which additional information is needed; and

(C) Indicate the date by which the submitter must provide the requested information.

(2) If the submitter fails to provide the information within the time frame specified, the Department shall provide notice to the submitter by certified mail that the claim is out of compliance with this article, and that the information claimed to be trade secret will be considered a public record subject to disclosure by the Department thirty (30) days after such notice is mailed. During this 30-day period, the submitter may seek judicial review by filing an action for a preliminary injunction and/or declaratory relief.

(c) ~~[Reserved]~~ Notice to Submitter. If the Department determines that the information provided pursuant paragraphs (2) through (11) of section 69509(a) in support of a trade secret claim does not establish that the information claimed to be trade secret meets the definition of “trade secret” in section 69501.1(a)(66), the Department shall provide notice to the submitter by certified mail of the Department’s determination and the fact that the information claimed to be trade secret will be considered a public record subject to disclosure by the Department thirty (30) days after such notice is mailed. During this 30-day period, the submitter may seek judicial review by filing an action for a preliminary injunction and/or declaratory relief.

(d) Judicial Review. If a person asserting a claim of trade secret protection initiates an action for a preliminary injunction and/or declaratory relief under subsection (b)(2) or (c), the Department may not publicly release or disclose the information that is the subject of the claim of trade secret protection until resolution of any court challenge, including any appeals.

NOTE: Authority cited: Sections 25252, 25253, and 58012, Health and Safety Code.

Reference: Sections 25252, 25253, and 25257, Health and Safety Code.

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