

## TEXT OF PROPOSED REGULATIONS

May 2012

## DIVISION 4.5, TITLE 22, CALIFORNIA CODE OF REGULATIONS

## CHAPTER 55. SAFER CONSUMER PRODUCTS

**Amend** the Table of Contents by adding chapter 55, articles 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12, and sections 69501, 69501.1, 69501.2, 69501.3, 69501.4, 69501.5, 69502, 69502.1, 69502.2, 69502.3, 69503, 69503.1, 69503.2, 69503.3, 69503.4, 69503.5, 69503.6, 69503.7, 69504, 69504.1, 69505, 69505.1, 69505.2, 69505.3, 69505.4, 69505.5, 69505.6, 69506, 69506.1, 69506.2, 69506.3, 69506.4, 69506.5, 69506.6, 69506.7, 69506.8, 69506.9, 69506.10, 69506.11, 69506.12, 69507, 69507.1, 69507.2, 69507.3, 69507.4, 69507.5, 69507.6, 69508, 69508.1, 69508.2, 69508.3, 69508.4, 69509, 69510, 69510.1, 69511, and 69512 through 69599 to division 4.5 of California Code of Regulations, title 22, to read:

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1 **Add** California Code of Regulations, title 22, division 4.5, chapter 55 to read:

2

3 **Chapter 55. Safer Consumer Products**

4

5 **Article 1. General**

6

7 **§ 69501. Purpose and Applicability.**

8 (a) This chapter specifies the process for identifying chemicals as Chemicals of  
9 Concern, and the process for prioritizing consumer products containing Chemicals of Concern  
10 and identifying alternatives to consider for Priority Products to determine how best to limit  
11 exposures to, or the level of adverse impacts posed by, the Chemical of Concern in the  
12 product. This chapter also specifies the regulatory responses that will be imposed by  
13 operation of article 6 or may be required by the Department following completion of an  
14 alternatives analysis.

15 (b)(1) Except as provided in paragraphs (2) and (3), this chapter applies to all consumer  
16 products placed into the stream of commerce in California.

17 (2) This chapter does not apply to any product that is exempted from the definition of  
18 “consumer product” specified in Health and Safety Code section 25251, or to any product that  
19 is placed into the stream of commerce in California solely for the manufacture of one or more  
20 of the products exempted from the definition of “consumer product” specified in Health and  
21 Safety Code section 25251.

22 (3) This chapter does not apply to any consumer product manufactured or stored in, or  
23 transported through, California solely for use outside of California.

24

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

26 Reference: Sections 25251, 25252, 25253, and 25257.1, Health and Safety Code.

27

28 **§ 69501.1. Definitions.**

29 (a) When used in this chapter, the following terms have the meanings specified in this  
30 section:

31

32 (1) “AA Reports” means the Preliminary and Final AA Reports, collectively.

33

34 (2) “Accreditation body” means an entity designated by the Department, under article 8,  
35 to administer a program designed to train, evaluate, assist, and certify assessors.

36

37 (3) “Adverse air quality impacts” means air emissions of any of the air contaminants  
38 listed below that have the ability to result in adverse public health, ecological, soil, or water  
39 impacts:

40 (A) California Toxic Air Contaminants as specified in Title 17, California Code of  
41 Regulations, sections 93000 through 93001;

42 (B) Greenhouse gases, which means any of the following gases:

- 1 1. Carbon dioxide;
- 2 2. Hydrofluorocarbons;
- 3 3. Methane;
- 4 4. Nitrogen trifluoride;
- 5 5. Nitrous oxide;
- 6 6. Perfluorocarbons;
- 7 7. Sulfur hexafluoride;
- 8 8. Gases that exhibit the global warming potential hazard trait, as specified in section
- 9 69405.4;
- 10 (C) Nitrogen oxides;
- 11 (D) Particulate matter that exhibits the particle size or fiber dimension hazard trait, as
- 12 specified in section 69405.7;
- 13 (E) Chemical substances that exhibit the stratospheric ozone depletion potential hazard
- 14 trait, as specified in section 69405.8;
- 15 (F) Sulfur oxides; or
- 16 (G) Tropospheric ozone-forming compounds, including compounds that exhibit the
- 17 ambient ozone formation hazard trait, as specified in section 69405.1.
- 18
- 19 (4) "Adverse ecological impacts" means any of the following direct or indirect effects on
- 20 living organisms and their environments:
- 21 (A) Adverse impacts to aquatic, avian, or terrestrial animal or plant organisms or
- 22 microbes, including:
- 23 1. Acute or chronic toxicity;
- 24 2. Changes in population size, reductions in biodiversity, or changes in ecological
- 25 communities; and
- 26 3. The ability of an endangered or threatened species to survive or reproduce;
- 27 (B) Adverse impacts on aquatic and terrestrial ecosystems including:
- 28 1. Deterioration or loss of environmentally sensitive habitats;
- 29 2. Impacts that contribute to or cause vegetation contamination or damage; and
- 30 3. Adverse impacts on environments that have been designated as impaired by a
- 31 California State or federal regulatory agency;
- 32 (C) Biological or chemical contamination of soils; and
- 33 (D) Any other adverse effect, as defined in section 69401.2(a), for environmental hazard
- 34 traits and endpoints specified in article 4 of chapter 54.
- 35
- 36 (5) "Adverse environmental impacts" means any of the following:
- 37 (A) Adverse air quality impacts;
- 38 (B) Adverse ecological impacts;
- 39 (C) Adverse soil quality impacts;
- 40 (D) Adverse water quality impacts; or
- 41 (E) Exceedance of an enforceable California or federal regulatory standard relating to
- 42 the protection of the environment.

1  
2 (6) "Adverse public health impacts" means any of the toxicological effects on public  
3 health specified in articles 2 and 3 of chapter 54, or exceedance of an enforceable California or  
4 federal regulatory standard relating to the protection of public health.

5  
6 (7) "Adverse public health and/or environmental impacts" or "adverse impacts" means  
7 adverse public health impacts and/or adverse environmental impacts, collectively.

8  
9 (8) "Adverse soil quality impacts" means any of the following effects on soil function or  
10 properties:

11 (A) Compaction or other structural changes;

12 (B) Erosion;

13 (C) Loss of organic matter; or

14 (D) Soil sealing, meaning the covering of the surface soil with a layer of impervious  
15 material or changing the nature of the soil so that it behaves as an impermeable medium.

16  
17 (9) "Adverse waste and end-of-life impacts" means the materials and byproducts  
18 generated during the life cycle of the Priority Product and/or each alternative being considered,  
19 including degradates and reaction products, and the associated adverse public health or  
20 environmental impacts due to any of, or a combination of, the following:

21 (A) The volume or mass generated;

22 (B) Any special handling requirements needed to mitigate adverse impacts;

23 (C) Impacts on solid waste disposal and treatment, including operation of solid waste  
24 handling or treatment facilities;

25 (D) Discharge or disposal to storm drains or sewers, contributing to adverse impacts on  
26 operation of wastewater or storm water treatment facilities; or

27 (E) Release into the environment, as a result of solid waste handling, treatment, or  
28 disposal activities or the discharge or disposal to storm drains or sewers, of either or both of  
29 the following:

30 1. The Chemical(s) of Concern contained in the Priority Product or alternatives; or

31 2. Any other chemical contained in the alternatives that differs from the chemicals  
32 contained in the Priority Product.

33  
34 (10) "Adverse water quality impacts" means any of the following adverse effects on the  
35 beneficial uses, as specified in Water Code section 13050(f) or adopted in a Water Quality  
36 Control Plan under article 3 of chapter 3 and/or article 3 of chapter 4 of division 7 of the Water  
37 Code, of the waters of the State, which include groundwater, fresh water, brackish water,  
38 marsh lands, wetlands, or coastal bodies or systems:

39 (A) Increase in biological oxygen demand;

40 (B) Increase in chemical oxygen demand;

41 (C) Increase in temperature;

42 (D) Increase in total dissolved solids; or

- 1 (E) Introduction of, or increase in, any of the following:
- 2 1. Priority toxic pollutants identified for California under section 303(c) of the federal
- 3 Clean Water Act;
- 4 2. Pollutants listed by California or the Environmental Protection Agency for one or
- 5 more water bodies in California under section 303(d) of the federal Clean Water Act;
- 6 3. Chemicals for which primary Maximum Contaminant Levels (MCLs) have been
- 7 established under Health and Safety Code section 116365(a), or by the Environmental
- 8 Protection Agency under the federal Safe Drinking Water Act;
- 9 4. Chemicals for which Notification Levels (NLs) have been specified under Health and
- 10 Safety Code section 116455; or
- 11 5. Chemicals for which public health goals for drinking water have been published
- 12 under the California Safe Drinking Water Act (commencing with Health and Safety Code
- 13 section 116270).
- 14
- 15 (11) "Alternative" means any of the following:
- 16 (A) Removal of Chemical(s) of Concern in a Priority Product, with or without adding a
- 17 substitute chemical or increasing the concentration of a chemical already contained in the
- 18 product;
- 19 (B) Reformulation or redesign of a Priority Product and/or manufacturing process to
- 20 reduce or eliminate the concentration of Chemical(s) of Concern in the Priority Product;
- 21 (C) Redesign of a Priority Product and/or manufacturing process, using different
- 22 materials to reduce or restrict public health and/or environmental exposures to Chemical(s) of
- 23 Concern in the Priority Product; or
- 24 (D) Any other change to a Priority Product or a manufacturing process that reduces the
- 25 adverse public health and/or environmental impacts or exposures associated with the
- 26 Chemical(s) of Concern in the Priority Product.
- 27
- 28 (12) "Alternatives Analysis" or "AA" means an evaluation and comparison of a Priority
- 29 Product and one or more alternatives to the product, under article 5.
- 30
- 31 (13) "Alternatives Analysis Threshold" means a concentration equal to whichever of the
- 32 following is applicable:
- 33 (A) 0.01% by weight for Chemicals of Concern exhibiting any of the following hazard
- 34 traits or environmental or toxicological endpoints:
- 35 1. Bioaccumulation;
- 36 2. Carcinogenicity, as defined in section 69402.1, which meets one or more of the
- 37 criteria in section 69402.2(a);
- 38 3. Developmental toxicity, as defined in section 69402.3, which meets one or more of
- 39 the criteria in section 69402.4(a);
- 40 4. Endocrine toxicity, as defined in section 69403.3, which meets one or more of the
- 41 criteria in section 69403.17(a);

- 1        5.        Genotoxicity, as defined in section 69403.5, which meets one or more of the criteria  
2 in section 69403.17(a);
- 3        6.        Immunotoxicity, as defined in section 69403.8, which meets one or more of the  
4 criteria in section 69403.17(a);
- 5        7.        Neurotoxicity, as defined in section 69403.12, which meets one or more of the  
6 criteria in section 69403.17(a);
- 7        8.        Persistence; or
- 8        9.        Reproductive toxicity, as defined in section 69402.5, which meets one or more of the  
9 criteria in section 69402.6(a).
- 10        (B)       0.1% by weight for Chemicals of Concern that do not exhibit any of the hazard traits  
11 or environmental or toxicological endpoints listed in subparagraph (A).
- 12        (C)       The alternatives analysis threshold concentration specified by the Department under  
13 section 69503.4(c).
- 14
- 15        (14)      “Alternatives Analysis Threshold Exemption Notification” means a notification  
16 submitted to the Department under section 69503.6.
- 17
- 18        (15)      “Aqueous hydrolysis half-life” means the time required for the concentration of a  
19 chemical to be reduced to one-half of its initial concentration after being introduced into water.
- 20
- 21        (16)      “Atmospheric oxidation rate” means the rate of change or degradation of a chemical  
22 through the interaction with oxygen in the atmosphere.
- 23
- 24        (17)      “Bioaccumulation” means the following:
- 25        (A)       Accumulation of a chemical in an organism, tissues of an organism, or an individual  
26 biological compartment of the environment, which absorbs the chemical at a rate greater than  
27 that at which the chemical is lost; and
- 28        (B)       Bioaccumulation as specified in section 69405.2.
- 29
- 30        (18)      “Certified assessor” means an individual that has been issued a “Certified  
31 Alternatives Assessor” certificate by an accreditation body, under article 8.
- 32
- 33        (19)      “Chemical” means any organic or inorganic substance of a particular molecular  
34 identity, including any combination of such substances occurring, in whole or in part, as a  
35 result of a chemical reaction or occurring in nature, and any element, ion or uncombined  
36 radical, and any degradate, metabolite, or reaction product of a substance with a particular  
37 molecular identity.
- 38        (A)       “Molecular identity” means the substance’s physicochemical properties, chemical  
39 structure and composition, size and size distribution, shape and surface structure, reactivity,  
40 and any other properties that are relevant to whether the substance would be a Chemical of  
41 Concern.

1 (B) When the term “chemical” is used in these regulations it also includes the term  
2 “chemical ingredient”.

3  
4 (20) “Chemical ingredient” means a substance that comprises one or more chemicals.

5  
6 (21) “Chemical of Concern” means a chemical identified as a Chemical of Concern under  
7 section 69502.2, or a chemical listed by the Department under section 69502.3.

8  
9 (22) “Component” means a uniquely identifiable part, piece, assembly or subassembly,  
10 system, or subsystem of a consumer product that:

11 (A) Is required to complete or finish an item;

12 (B) Performs a distinctive and necessary function in the operation of a system; or

13 (C) Is intended to be included as a part of a finished item.

14  
15 (23)(A) “Consumer product” or “Product” means any of the following:

16 1. A “consumer product” as defined in Health and Safety Code section 25251;

17 2. A component that meets the definition of a “consumer product” specified in Health  
18 and Safety Code section 25251; or

19 3. A component, or a homogeneous material within a component, that is identified,  
20 under section 69503.4(a)(2)(C), as the minimum required focus of an AA.

21 (B)1. “Consumer product” or “Product” does not mean any historic product.

22 2. “Historic product” means a product that is manufactured prior to the date the product  
23 is listed as a Priority Product, and its service, replacement and repair parts produced after that  
24 date to maintain and/or repair the historic product as-built.

25 (C) “Consumer product” or “Product” does not mean a product previously owned or  
26 leased by someone other than the manufacturer, importer, distributor, or retailer of the product.

27  
28 (24) “Contact information” means mailing and electronic address, headquarters location,  
29 phone number(s), title(s) if applicable, and website address.

30  
31 (25) “Day” means calendar day. Periods of time are calculated by excluding the first day  
32 and including the last; except that the last day is excluded if it is a Saturday, Sunday, or other  
33 holiday specified in Government Code section 6700.

34  
35 (26) “Department” means the Department of Toxic Substances Control.

36  
37 (27) “End-of-life” means the point when the product is discarded by the consumer or the  
38 end of the useful life of the product, whichever occurs first.

39  
40 (28) “Environment” means the land, air, water, soil, minerals, flora, and fauna.

41  
42 (29) “Environmental fate” means all of the following:

- 1 (A) Aerobic and anaerobic half-lives;
- 2 (B) Aqueous hydrolysis half-life;
- 3 (C) Atmospheric oxidation rate;
- 4 (D) Bioaccumulation;
- 5 (E) Biodegradation;
- 6 (F) Mobility in environmental media, as specified in section 69405.6;
- 7 (G) Persistence; and
- 8 (H) Photodegradation.

9  
10 (30) "Environmental or toxicological endpoint" means any environmental or toxicological  
11 endpoint specified in chapter 54.

12  
13 (31) "Failure to Comply List" means the list prepared by the Department under section  
14 69501.2(d).

15  
16 (32) "Functionally acceptable" means that an alternative product meets both of the  
17 following requirements:

- 18 (A) The product complies with all applicable legal requirements; and
- 19 (B) The product performs the functions of the original product sufficiently well that  
20 consumers can be reasonably anticipated to accept the product in the marketplace.

21  
22 (33) "Hazard trait" means any hazard trait specified or defined in chapter 54.

23  
24 (34) "Hazard trait submission" means any health, safety, or environmental study of, or  
25 health, safety, or environmental data regarding, a chemical that has been submitted to any  
26 government agency for any purpose or is required to be submitted to the Department under  
27 article 14 of chapter 6.5 of division 20 of the Health and Safety Code or these regulations.  
28 When any study or datum indicates that a chemical manifests any hazard trait, chemical  
29 identity is part of any hazard trait submission.

30  
31 (35) "Homogeneous material" means either of the following:

- 32 (A) One material of uniform composition throughout; or
- 33 (B) A material, consisting of a combination of materials, that cannot be disjointed or  
34 separated into different materials by mechanical actions such as unscrewing, cutting, crushing,  
35 grinding, or abrasive processes.

36  
37 (36) "Import" means to bring, or arrange to bring, a consumer product into the United  
38 States for purposes of placing the product into the stream of commerce. "Import" includes  
39 reimporting a consumer product manufactured or processed, in whole or in part, in the United  
40 States.

41  
42 (37) "Importer" means a person who imports a consumer product into the United States.

1  
2 (38) "Information" means data, documentation, records, graphs, reports, or any other  
3 depiction of specific pieces of knowledge.  
4

5 (39) "Legal requirements" means specifications and/or performance standards that a  
6 chemical, product, or product packaging is required to meet under federal or California law.  
7

8 (40) "Life cycle" means the sum of all activities in the course of a consumer product's  
9 entire life span, including raw materials extraction, resource inputs and other resource  
10 consumption, intermediate materials processes, manufacture, packaging, transportation,  
11 distribution, use, operation and maintenance, waste generation and management, reuse and  
12 recycling, and end-of-life disposal.  
13

14 (41) "Listserv" means an electronic mailing list that a person may subscribe to on the  
15 Department's website in order to automatically receive an electronic message regarding the  
16 posting of documents and other information on that website.  
17

18 (42) "Manufacture" means to make, produce, or assemble. "Manufacture" does not  
19 include any of the following actions, unless the action results in the addition, or increased  
20 concentration, of a Chemical of Concern, or replacement of a Chemical of Concern, in a  
21 product:

- 22 (A) Repair or refurbishment of an existing consumer product;  
23 (B) Installation of standardized components to an existing consumer product; or  
24 (C) Making non-material alterations to an existing consumer product.  
25

26 (43) "Manufacturer" means any person who manufactures a product, or any person that  
27 controls the specifications and design of, or use of materials in, a product.  
28

29 (44)(A) "Materials and resource consumption" means the consumption of renewable and  
30 nonrenewable resources that are used for a consumer product throughout its life cycle.

31 (B) Except as specified in subparagraph (C)2., a renewable resource is a resource that  
32 is capable of being replaced by natural processes at a rate equal to or faster than its  
33 consumption rate. Renewable resources include solar and wind energy, timber, agriculture,  
34 and water.

35 (C) Both of the following are nonrenewable resources:

- 36 1. An inherently finite resource that is formed over long periods of geologic time. This  
37 includes petroleum, coal, metals (mined and recycled), minerals, and other finite resources;  
38 and  
39 2. A resource that meets the definition of a renewable resource, specified in  
40 subparagraph (B), but the resource is consumed at a rate that exceeds the rate at which it is  
41 replaced such that its continued use would drive the resource to exhaustion.  
42

1 (45) "Persistence" means environmental persistence, as specified in section 69405.3.

2

3 (46) "Person" has the same meaning as in Health and Safety Code section 25118.

4

5 (47) "Physical chemical hazards" means physical hazard traits specified in article 6 of  
6 chapter 54.

7

8 (48) "Physicochemical properties" means the physicochemical properties specified in  
9 section 69407.2.

10

11 (49)(A) "Place into the stream of commerce in California" means to sell, offer for sale,  
12 distribute, supply, or manufacture a consumer product for use in California.

13 (B) "Sell or offer for sale" means any transfer or offer to transfer for consideration of title  
14 or the right to use, by lease or sales contract, including, but not limited to, transactions  
15 conducted and offers made through sales outlets, catalogs, or the Internet, or any other similar  
16 electronic means.

17

18 (50) "Priority Product" means a product identified and listed as Priority Product by the  
19 Department under section 69503.4.

20

21 (51) "Processing agent" means a chemical used in a product manufacturing process to  
22 promote chemical or physical changes.

23

24 (52) "Recycled material" means a material that has been separated from a waste stream  
25 for the purpose of recycling the material as feedstock.

26

27 (53) "Release" means an intentional or unintentional liberation, emission, or discharge of  
28 a chemical into the environment.

29

30 (54) "Reliable information" means a scientific study or other information that is one or  
31 more of the following:

32 (A) Published in a scientifically peer reviewed report or other literature;

33 (B) Published in a report of the United States National Academies;

34 (C) Published in a report by an international, federal, state, or local agency that  
35 implements laws governing chemicals; and/or

36 (D) Conducted, developed, submitted, or reviewed and accepted by an international,  
37 federal, state, or local agency for compliance or other regulatory purposes.

38

39 (55) "Reliable information demonstrating the occurrence of exposures to a chemical"  
40 means any of the following that meet the definition of reliable information:

41 (A) Monitoring data that shows the chemical to be any of the following:

42 1. Present in household dust, indoor air, or drinking water, or on interior surfaces;

- 1 2. Present in, or released from, products used in or present in the home;
- 2 3. Accumulative or persistent in the environment; or
- 3 4. Accumulative in aquatic, avian, animal, or plant species.
- 4 (B) Biomonitoring data that show the chemical to be present in human organs, tissues,
- 5 or fluids including data from either of the following:
- 6 1. California Environmental Contaminant Biomonitoring Program; or
- 7 2, Center for Disease Control's National Health and Nutrition Evaluation Survey
- 8 biomonitoring data.
- 9 (C) Evidence that a chemical exhibits the hazard trait for any of the following:
- 10 1. Bioaccumulation;
- 11 2. Persistence; or
- 12 3. Lactational or transplacental transfer, as specified in section 69405.5.
- 13 (D) Exposure or environmental modeling that indicates either of the following:
- 14 1. Exposure point concentration(s) associated with adverse public health or
- 15 environmental impacts; or
- 16 2. Environmental accumulation of a chemical.
- 17 (E) Monitoring data indicating the presence of a chemical or its degradation products in
- 18 California solid waste, wastewater, or storm water streams collected or managed by California
- 19 State or local agencies in concentrations or volumes that:
- 20 1. Contribute to or cause adverse public health or environmental impacts;
- 21 2. Would require the expenditure of public funds to mitigate adverse public health or
- 22 environmental impacts associated with the chemical or its degradation products;
- 23 3. Increase the costs of reusing or recycling materials containing the chemical or its
- 24 degradation products;
- 25 4. Interfere with the proper operation of solid waste, wastewater, or storm water
- 26 treatment systems and result in the discharge of the chemical or its degradation products to
- 27 the environment;
- 28 5. Exceed regulatory thresholds for the chemical or its degradation products; or
- 29 6. Result in violations of the permit issued to the facility responsible for managing solid
- 30 waste, wastewater, or storm water streams.
- 31
- 32 (56) "Responsible entity" means any of the following:
- 33 (A) The manufacturer of a consumer product.
- 34 (B) The importer of a consumer product.
- 35 (C) The retailer of a consumer product.
- 36
- 37 (57) "Retailer" means a person to whom a consumer product is delivered or sold for
- 38 purposes of sale or distribution by the person to a consumer.
- 39
- 40 (58) "Safer alternative" means an alternative that, in comparison with the existing Priority
- 41 Product, reduces, avoids, or eliminates the use of, and/or exposures to, one or more
- 42 Chemical(s) of Concern, so as to reduce adverse public health and environmental impacts.

1  
2 (59) "Sales outlet" means any place at which consumer products are sold, supplied, or  
3 offered for sale directly to consumers in California.

4  
5 (60) "Sensitive subpopulations" means subgroups that comprise a meaningful portion of  
6 the general population that are identifiable as being at greater risk of adverse health effects  
7 when exposed to one or more chemicals that exhibit a hazard trait or toxicological endpoint,  
8 including, but not limited to, infants, children, pregnant women, elderly individuals, and  
9 individuals with a history of serious illness or greater exposures that render them as being at  
10 greater risk of adverse health effects when exposed to chemicals.

11  
12 (61) "Technically and economically feasible alternative" means an alternative product or  
13 chemical for which:

14 (A) The technical knowledge, equipment, materials, and other resources available in the  
15 marketplace are expected to be sufficient to develop and implement the alternative, and to  
16 meet consumer demand after an appropriate phase-in period; and

17 (B) The manufacturer's operating margin is not significantly reduced.

18  
19 (62) "Trade secret" means "Trade Secret" as defined in Civil Code section 3426.1(d).

20  
21 (63) "Useful life" means the period of time during which a product can be used for its  
22 intended use, expressed in terms of a single use, number of applications, or days, months, or  
23 years of use.

24  
25 NOTE: Authority cited: Sections 25252, 25253, and 58012, Health and Safety Code.

26 Reference: Sections 25251, 25252, 25253, and 25257, Health and Safety Code, Section 1060,  
27 Evidence Code, and Sections 3426 through 3426.11, inclusive, Civil Code.

28  
29 **§ 69501.2. Duty to Comply and Consequences of Non-Compliance.**

30 (a) Duty to Comply.

31 (1) A manufacturer has the principal duty to comply with requirements applicable to a  
32 responsible entity. In the event a manufacturer does not comply, it shall be the duty of the  
33 importer, if any, to comply. A retailer is required to comply with the requirements applicable to  
34 a responsible entity only if the manufacturer and the importer have failed to comply and the  
35 Department notifies the retailer of such non-compliance by posting the information on the  
36 Failure to Comply List, under subsection (d)(4)(C).

37 (2) Except for the requirement to submit a notification under sections 69503.6 or  
38 69503.7, the requirements of this chapter applicable to a responsible entity may be fulfilled by  
39 a consortium, trade association, public-private partnership, or other entity acting on behalf of,  
40 or in lieu of, the responsible entity.

41 (b) Manufacturer and Importer Options.

1 (1) Priority Product Removal Notification. A responsible entity that is the manufacturer  
2 or importer of a product is not responsible for complying with the applicable requirements of  
3 this chapter if the manufacturer or importer provides a written notice to the Department  
4 containing information demonstrating to the Department's satisfaction that the product is no  
5 longer placed into the stream of commerce in California. The notice shall be provided no later  
6 than the due date for compliance with the requirement. The notice must include all of the  
7 following information:

8 (A) The name of, and contact information for, the manufacturer or the importer;

9 (B) The name of, and contact information for, all persons in California, other than the  
10 final purchaser or lessee, to whom the manufacturer or importer directly sold the product within  
11 the prior twelve (12) months;

12 (C) Identification and location of the manufacturer's or the importer's retail sales outlets  
13 where the manufacturer or importer sold, supplied, or offered for sale the product in California,  
14 if applicable; and

15 (D) Information describing the product, including the brand name(s) and product  
16 name(s) under which the product was placed into the stream of commerce in California.

17 (2)(A) Priority Product Replacement Notification. If the manufacturer or importer places a  
18 product into the stream of commerce in California that replaces the removed Priority Product,  
19 in terms of use and customer bases, and that contains the same or different Chemical(s) of  
20 Concern, the manufacturer or importer shall provide a notice to the Department at the same  
21 time as the notice provided under paragraph (1), or within thirty (30) days after the  
22 replacement product is first placed into the stream of commerce in California, whichever is  
23 later. The notice must include all of the following information:

24 1. The manufacturer's or importer's name and contact information;

25 2. The name of, and contact information for, all persons in California, other than the  
26 final purchaser or lessee, to whom the manufacturer or importer directly sold the product within  
27 the prior twelve (12) months;

28 3. Identification and location of the manufacturer's or the importer's retail sales outlets  
29 where the manufacturer or importer sold, supplied, or offered for sale the product in California,  
30 if applicable;

31 4. Information describing the Priority Product that is replaced by the new product,  
32 including the brand name(s) and product name(s) under which the Priority Product was placed  
33 into the stream of commerce in California;

34 5. Information describing the new product that replaces the Priority Product, including  
35 the brand name(s) and product name(s) under which the product is placed into the stream of  
36 commerce in California, and the Chemical(s) of Concern in the new product; and

37 6. A copy of the notice provided under paragraph (1).

38 (B) Subparagraph does not apply to a replacement product that was the selected  
39 alternative from an AA conducted under article 5.

40 (c) Retailer Option.

1 A retailer of a consumer product for which the Department has provided notice under  
2 subsection (a), shall not be held responsible for complying with the requirements specified in  
3 the notice if:

4 (1) The manufacturer or importer complies with the requirement specified in the  
5 Department's notice, or fulfills the requirements of subsection (b), within sixty (60) days after  
6 the Department issues the notice; or

7 (2) The retailer complies with both of the following requirements:

8 (A) The retailer ceases ordering the product no later than ninety (90) days after the  
9 Department has provided notice under subsection (a)(1); and

10 (B) No later than ninety (90) days after the Department has provided notice under  
11 subsection (a)(1), the retailer submits a Priority Product Cease Ordering Notification to notify  
12 the Department that it has ceased ordering the product, and provides the following information  
13 to the Department:

14 1. The name of, and contact information for, the retailer;

15 2. The name of, and contact information for, the manufacturer and importer;

16 3. Identification and location of the retailer's sales outlets where the product is sold,  
17 supplied, or offered for sale in California;

18 4. The name of, and contact information for, the person immediately upstream from the  
19 retailer in the supply chain for the product;

20 5. Information describing the product, including the brand name(s) and product  
21 name(s) under which the retailer placed the product into the stream of commerce in California;  
22 and

23 6. A statement certifying that the retailer will not re-initiate ordering the product unless  
24 and until information posted on the Department's website indicates that the non-compliance  
25 has been remedied.

26 (d) Failure to Comply List.

27 (1)(A) If the Department determines that one or more requirements of this chapter have not  
28 been complied with for a specific product, the Department shall issue a notice of non-  
29 compliance to the manufacturer and the importers for the product.

30 (B) A notice of non-compliance must include a description of the nature of the non-  
31 compliance and the Department's intent to place information concerning the determination of  
32 non-compliance on the Failure to Comply List on its website under paragraph (4).

33 (2) If the non-compliance has not been remedied to the satisfaction of the Department,  
34 the Department shall post information concerning the determination of non-compliance on the  
35 Failure to Comply List on its website under paragraph (4). The Department shall post the  
36 information on the Failure to Comply List not less than forty-five (45) days and not later than  
37 ninety (90) days after issuing the notice of non-compliance. The non-compliance is deemed to  
38 be remedied when the Department determines either that the requirements of subsection  
39 (b)(1) have been fulfilled, or that the condition of non-compliance has been fully remedied.

40 (3) Paragraph (2) does not apply if there is pending dispute under article 7 concerning  
41 the notice of non-compliance.

1 (4) The Department shall post and maintain on its website a Failure to Comply List that  
2 includes all of the following information for each product covered by a notice of non-  
3 compliance:

4 (A) Information identifying and describing the product, including the brand name(s) and  
5 product name(s) under which the product is placed into the stream of commerce in California;

6 (B) The requirement(s) of this chapter, and the applicable due date(s), that are the basis  
7 for the notice of non-compliance;

8 (C) A statement placing retailers of the product on notice of the failure to comply by the  
9 manufacturer(s) and the importer(s), under subsection (a)(1), including identification of the  
10 requirement with which the retailer shall comply and the timeframe for compliance, which will  
11 be no less than ninety (90) days after the notice is posted on the Department's website;

12 (D) The Chemical(s) of Concern known to be in the product;

13 (E) The name of and, if known, the contact information for the person listed on the  
14 product label as the manufacturer and the person, if any, listed as the distributor;

15 (F) The name of, and contact information for, any manufacturer or importer that has  
16 been notified by the Department, under paragraph (1);

17 (G) The name of, and contact information for, retailers of the product known to the  
18 Department who have not fully complied with the requirements of subsection (c); and

19 (H) The date the product is first listed on the Failure to Comply List.

20 (5) The Department shall remove a product, and the associated information, from the  
21 Failure to Comply List if the Department determines that the condition of non-compliance has  
22 been fully remedied, or that the requirements of subsection (b)(1) have been fulfilled.

23 (6) The Department shall remove information concerning a retailer from the Failure to  
24 Comply List if the Department determines that the retailer has fully complied with subsection  
25 (c).

26  
27 NOTE: Authority cited: Sections 25252, 25253, and 58012, Health and Safety Code.

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

29  
30 **§ 69501.3. Information Submission and Retention Requirements.**

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

35 (b) All information submitted to the Department must be in English, and must be  
36 generated and submitted in a manner and in an electronic format specified by the Department.

37 (c) All Priority Product Removal Notifications, Priority Product Replacement  
38 Notifications, Priority Product Cease Ordering Notifications, Alternatives Analysis Threshold  
39 Exemption Notifications, Chemical of Concern Removal Notifications, AA Reports, and  
40 submissions of information claimed to constitute trade secrets must include the following  
41 certification statement, signed by the owner or an officer of the entity submitting the document,  
42 whose responsibilities include product development, product safety or related responsibilities

1 pertinent to the documents listed in this paragraph, and by the responsible individual in charge  
2 of preparing, or overseeing the preparation of, the information:

3  
4 “I certify under penalty of perjury that this document and all attachments were prepared or  
5 compiled under my direction or supervision to assure that qualified personnel properly  
6 gathered and evaluated the information submitted. Based on my inquiry of the person(s)  
7 directly responsible for gathering the information, the information submitted is, to the best of  
8 my knowledge and belief, true, accurate, and complete. I am aware that submitting false  
9 information or statements is a punishable offense.”

10  
11 (d) A person who is subject to a requirement to obtain or prepare information, but who is  
12 not required to submit the information to the Department or has not yet been requested to  
13 submit information to the Department, shall retain the information for a period of three (3) years  
14 following the date the person was required to obtain or prepare the information.

15  
16 NOTE: Authority cited: Sections 25252, 25253, and 58012, Health and Safety Code.  
17 Reference: Sections 25252 and 25253, Health and Safety Code.

18  
19 **§ 69501.4. Chemical and Product Information.**

20 (a) The Department shall seek to obtain and/or review information that it determines is  
21 necessary to implement this chapter using one or more of the following approaches:

22 (1) Obtain and/or review information in the public domain that is readily available in a  
23 usable format, without a subscription or other charge;

24 (2) Obtain and/or review information in the public domain that is readily available in a  
25 usable format, with a subscription or other charge, to the extent resources are available to pay  
26 the required costs;

27 (3) Request a responsible entity or a chemical manufacturer or importer to make  
28 existing information available to the Department, in accordance with a schedule specified by  
29 the Department; and/or

30 (4) Request a responsible entity or a chemical manufacturer or importer to generate  
31 new information and provide it to the Department, in accordance with a schedule specified by  
32 the Department.

33 (b) The Department may request that information be made available to it under this  
34 section by either or both of the following methods:

35 (1) Correspondence sent to an individual responsible entity or chemical manufacturer or  
36 importer electronically or by United States mail; and/or

37 (2) Information call-ins that, unless otherwise specified, apply to all responsible entities  
38 and/or all chemical manufacturers and importers of a specific chemical or product or group of  
39 chemicals or products. The Department shall post information call-ins on its website, and  
40 provide notice to individuals on the listserv(s) established by the Department related to this  
41 chapter.

1 (c)(1) Response Status List. The Department shall maintain and post on its website a  
2 Response Status List. The Response Status List shall be used to provide notice that a  
3 responsible entity or a chemical manufacturer or importer, or a person acting on behalf of or in  
4 lieu of that entity, has done one of the following:

5 (A) Made the information requested under this section available to the Department  
6 within the time specified by the Department; or

7 (B) Failed to make the information requested under this section available to the  
8 Department, within the time period specified by the Department; or

9 (C) Demonstrated to the Department's satisfaction that it does not have and is unable to  
10 produce the requested information.

11 (2) The information posted on the Response Status List shall include identification of the  
12 responsible entity or the chemical manufacturer or importer and the chemical or product that is  
13 the subject of the request.

14 (3) The Department shall update information on its website upon determining that the  
15 responsible entity or the chemical manufacturer or importer, or another person, has taken  
16 action to change its status under subsection (c)(1).

17 (d) Safer Consumer Products Partner Recognition List. The Department shall maintain  
18 and post on its website a Safer Consumer Products Partner Recognition List identifying  
19 persons that have voluntarily provided the Department with information that advances the  
20 quest for safer consumer products. Persons identified on this list shall include, but are not  
21 limited to, persons that have done one or both of the following:

22 (1) Voluntarily completed an alternative analysis on a consumer product that has not  
23 been listed as a Priority Product; or

24 (2) Voluntarily provided information that is helpful to the Department in implementing  
25 this chapter.

26  
27 NOTE: Authority cited: Sections 25252, 25253, and 58012, Health and Safety Code.

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

29  
30 **§ 69501.5. Availability of Information on the Department's Website.**

31 (a) The Department shall post on its website, and update as appropriate, all of the  
32 information and documents listed below. The Department shall also provide notice of the  
33 availability of these documents and information, including the availability of updates to the  
34 documents and information, to individuals on the listserv(s) that the Department establishes  
35 related to this chapter.

36 (1) The Failure to Comply List prepared under section 69501.2(d).

37 (2) Requests for information made under section 69501.4.

38 (3) Proposed and final Chemicals of Concern and Priority Products lists and revisions to  
39 the lists, supporting rationale and documentation, prepared under sections 69502.3 and  
40 69503.4, copies of all written comments received during the public comment period for the  
41 proposed list, and copies of any written responses the Department provides to the comments.

- 1 (4) Petitions designated as complete under section 69504(c), and notices of decision  
2 and statements of basis prepared by the Department under section 69504.1(d).
- 3 (5) A list of extension requests approved for submission of AA Reports.
- 4 (6) AA Report notices of compliance, notices of deficiency, notices of disapproval, and  
5 notices of ongoing review issued under section 69505.6.
- 6 (7) Proposed and final regulatory response determination notices issued by the  
7 Department under section 69505.6(c) and article 6, copies of all written comments received  
8 during the public comment period for a proposed notice, and copies of any written responses  
9 the Department provides to the comments.
- 10 (8) A list of regulatory response exemption requests submitted to the Department under  
11 section 69506.11, and copies of all notifications issued by the Department granting, denying,  
12 or rescinding a regulatory response exemption.
- 13 (9) Copies of all disputes and Requests for Review filed with the Department under  
14 article 7, and copies of all Department decisions, and notices of ongoing review, issued in  
15 response to disputes and Requests for Review.
- 16 (10) A list of accreditation bodies whose designation has been revoked by the  
17 Department under section 69508.3(d) or (g), and a list of certified assessors whose  
18 certification has been reprovved, suspended, place on probation, or revoked under section  
19 69508 (e).
- 20 (b) The Department shall also post on its website, and update as appropriate, all of the  
21 following information and documents:
- 22 (1) The Response Status List prepared under section 69501.4(c).
- 23 (2) The Safer Consumer Product Partner Recognition List prepared under section  
24 69501.4(d).
- 25 (3) As the following information becomes available, the Department shall add it to the  
26 Priority Products list for each product that is a Priority Product, and maintain and update this  
27 information for as long as the Priority Product continues to be placed into the stream of  
28 commerce in California:
- 29 (A) Brand name(s) and product name(s) for the product;
- 30 (B) Product manufacturer(s) and importers, except for those manufacturers or importers  
31 that have complied with the requirements of section 69501.2(b);
- 32 (C) Other responsible entities for the product, except for the responsible entities that  
33 have complied with the requirements of section 69501.2(c);
- 34 (D) The identity of the person that has been identified as being the person that will fulfill  
35 the requirements of article 5;
- 36 (E) The due dates for, and dates of receipt of, each Preliminary AA Report and Final AA  
37 Report; and
- 38 (F) Lists of, and copies of, all of the following that have been submitted to the  
39 Department for each product:
- 40 1. Priority Product Notifications;

- 1       2.       Alternatives Analysis Threshold Exemption Notifications, and notices submitted to  
2 the Department under subsections (c) and (d) of section 69503.6, and notices issued by the  
3 Department under section 69503.6(e);
- 4       3.       Priority Product Removal Notifications, and, when applicable, the associated Priority  
5 Product Replacement Notifications;
- 6       4.       Chemical of Concern Removal Notifications; and
- 7       5.       Priority Product Cease Ordering Notifications.
- 8       (4)       Guidance documents prepared by the Department under section 69505(a).
- 9       (5)       AAs made available by the Department under section 69505(b).
- 10      (6)       A list of all Preliminary AA Reports, Final AA Reports, Abridged AA Reports, and  
11 Alternate Process AA Work Plans that have been submitted to the Department under article 5,  
12 the executive summary for each document, and a full or redacted copy of each document,  
13 including both the originally submitted document and the document approved by the  
14 Department, if different.
- 15      (7)       A list, and copies, of all notifications issued by the Department, and all documents  
16 submitted to the Department, under section 69506.6.
- 17      (8)       Copies of, or links to, product stewardship plans, substitute end-of-life management  
18 programs, exemptions from end-of-life management program requirement, and copies of  
19 annual end-of-life program reports.
- 20      (9)       The Regulatory Response Summary prepared and updated under section  
21 69506.12(d).
- 22      (10)      A list of entities that have been designated as accreditation bodies under section  
23 69508.3, and a list of certified assessors who have been accredited under section 69508. The  
24 Department shall update these lists whenever an accreditation body's designation is revoked,  
25 or an assessor's certification is reprovved, suspended, placed on probation, or revoked.
- 26      (11)      Findings of audits conducted by the Department under section 69509.
- 27      (c)       All documents and information posted on the Department's website under this  
28 chapter must include the date the document or information is first posted and the date(s) of  
29 any revised postings.

30  
31 NOTE: Authority cited: Sections 25252, 25253, and 58012, Health and Safety Code.  
32 Reference: Sections 25252 and 25253, Health and Safety Code.

33  
34 **Article 2.     Chemicals of Concern Identification Process**

35  
36 **§ 69502.     General.**

- 37      (a)       This article identifies Chemicals of Concern, and specifies the process by which the  
38 Department may identify additional Chemicals of Concern.
- 39      (b)       The Department may use, but is not limited to using, information obtained and/or  
40 reviewed under section 69501.4 to perform its duties under this article.

1 NOTE: Authority cited: Sections 25252 and 58012, Health and Safety Code. Reference:  
2 Section 25252, Health and Safety Code.

3  
4 **§ 69502.1. Applicability.**

5 This article applies to all chemicals that exhibit a hazard trait or an environmental or  
6 toxicological endpoint, and that are present in products that are placed into the stream of  
7 commerce in California.

8  
9 NOTE: Authority cited: Sections 25252, 25253, and 58012, Health and Safety Code.  
10 Reference: Sections 25252 and 25257.1, Health and Safety Code.

11  
12 **§ 69502.2. Chemicals of Concern Identification.**

13 (a) Initial Chemicals of Concern List. As of the effective date of these regulations, a  
14 chemical is identified as a Chemical of Concern, if it exhibits a hazard trait or an environmental  
15 or toxicological endpoint, and meets one or both of the following criteria:

16 (1) The chemical is identified as exhibiting a hazard trait or an environmental or  
17 toxicological endpoint on one or more of the following lists:

18 (A) Carcinogens and reproductive toxins listed under Health and Safety Code section  
19 25249.8 of the California Safe Drinking Water and Toxic Enforcement Act of 1986;

20 (B) Category 1A and 1B carcinogens, Category 1A and 1B reproductive toxins, and  
21 Category 1A and 1B mutagens identified in European Union European Commission 1272/2008  
22 Annex VI;

23 (C) Category 1 endocrine disruptors identified in the *European Commission DG Env*  
24 *report, Towards the establishment of a priority list of substances for further evaluation of their*  
25 *role in endocrine disruption*, M0355008/1786Q/10/11/00;

26 (D) Chemicals for which a reference dose or reference concentration has been  
27 developed based on neurotoxicity in the United States Environmental Protection Agency's  
28 Integrated Risk Information System;

29 (E) Chemicals that are identified as "carcinogenic to humans", "likely to be carcinogenic  
30 to humans", or Group A, B1, or B2 carcinogens in the United States Environmental Protection  
31 Agency's Integrated Risk Information System;

32 (F) Chemicals that are identified as "known to be" or "reasonably anticipated to be" a  
33 human carcinogen in the 12th Report on Carcinogens, United States Department of Health  
34 and Human Services, Public Health Service, National Toxicology Program;

35 (G) Chemicals that are identified as Persistent Bioaccumulating Toxins on the European  
36 Chemical Substances Information System;

37 (H) Chemicals that are identified as Persistent, Bioaccumulative, and Inherently Toxic to  
38 the environment by the Canadian Environmental Protection Act Environmental Registry  
39 Domestic Substances List;

40 (I) Groups 1, 2A, and 2B carcinogens identified by the International Agency for  
41 Research on Cancer;

- 1 (J) Neurotoxicants that are identified in the Agency for Toxic Substances and Disease  
2 Registry's Toxic Substances Portal, Health Effects of Toxic Substances and Carcinogens,  
3 Nervous System;
- 4 (K) Persistent Bioaccumulative and Toxic Priority Chemicals that are identified by the  
5 United States Environmental Protection Agency's National Waste Minimization Program;
- 6 (L) Reproductive or developmental toxicants identified in Monographs on the Potential  
7 Human Reproductive and Developmental Effects, National Toxicology Program, Office of  
8 Health Assessment and Translation;
- 9 (M) United States Environmental Protection Agency's Toxics Release Inventory  
10 Persistent, Bioaccumulative and Toxic Chemicals that are subject to reporting under the  
11 Emergency Planning and Community Right-to-Know Act section 313; and/or
- 12 (N) Washington Department of Ecology's Persistent, Bioaccumulative, Toxic Chemicals  
13 identified in the Washington Administrative Code, title 173, chapter 173-333.
- 14 (2) The chemical is one or more of the following types of chemicals:
- 15 (A) Chemicals for which Notification Levels, as defined in Health and Safety Code  
16 section 116455, have been established by the California Department of Public Health;
- 17 (B) Chemicals for which primary Maximum Contaminant Levels have been established  
18 and adopted under sections 64431 or 64444 of chapter 15 of Title 22 of the California Code of  
19 Regulations;
- 20 (C) Chemicals that are air pollutants that may contribute to or cause an increase in  
21 mortality or an increase in serious illness or which may pose a present or potential hazard to  
22 human health, and are identified as Toxic Air Contaminants under sections 93000 and 93001  
23 of Title 17 of the California Code of Regulations;
- 24 (D) Chemicals that are identified as priority toxic pollutants in the California Water  
25 Quality Control Plans under section 303(c) of the federal Clean Water Act and in section  
26 131.38 of Title 40 of the Code of Federal Regulations;
- 27 (E) Chemicals that are identified with non-cancer endpoints and listed with an inhalation  
28 or oral Reference Exposure Level by the California Office of Environmental Health Hazard  
29 Assessment under Health and Safety Code section 44360(b)(2);
- 30 (F) Priority Chemicals that are identified under the California Environmental  
31 Contaminant Biomonitoring Program;
- 32 (G) Chemicals that are identified on the Centers for Disease Control and Prevention's  
33 *Fourth National Report on Human Exposure to Environmental Chemicals and Updated Tables*;  
34 and/or
- 35 (H) Chemicals that are identified on Part A of the list of Chemicals for Priority Action,  
36 Oslo and Paris Conventions for the Protection of the Marine Environment of the North-East  
37 Atlantic.
- 38 (b) Additions to the Chemicals of Concern List. In addition to the chemicals identified as  
39 Chemicals of Concern under subsection (a), the Department may identify chemicals, which  
40 exhibit one or more hazard traits or environmental or toxicological endpoints, as Chemicals of  
41 Concern by considering the following factors for which information is available:
- 42 (1) Adverse Impacts.

1 (A) The ability of the chemical to contribute to or cause adverse public health and/or  
2 environmental impacts, considering reliable information relevant to the following factors:  
3 1. The chemical's hazard trait(s) and/or environmental or toxicological endpoint(s);  
4 2. The chemical's aggregate effects;  
5 3. The chemical's cumulative effects with other chemicals with similar hazard trait(s)  
6 and/or environmental or toxicological endpoint(s);  
7 4. The chemical's physical chemical hazards;  
8 5. The chemical's physicochemical properties;  
9 6. The chemical's environmental fate;  
10 7. The human populations and/or aquatic, avian, or terrestrial animal or plant  
11 organisms that would be adversely impacted; and  
12 8. The chemical's ability to degrade, form reaction products, or metabolize into another  
13 Chemical of Concern or a chemical that exhibits one or more hazard traits and/or  
14 environmental or toxicological endpoints.

15 (B) Based on reliable information, the Department shall give special consideration to the  
16 ability of the chemical to contribute to or cause adverse impacts for the following:

17 1. Sensitive subpopulations;  
18 2. Environmentally sensitive habitats;  
19 3. Endangered and threatened species; and  
20 4. Environments in California that have been designated as impaired by a California  
21 State or federal regulatory agency.

22 (C) Based on reliable information, the Department shall also give special consideration  
23 to the ability of the chemical to contribute to or cause widespread adverse public health and/or  
24 environmental impacts.

25 (2) Exposures. The Department shall consider the public and/or environmental  
26 exposures to the chemical in quantities that would contribute to or cause adverse impacts,  
27 considering relevant reliable information regarding public or environmental exposures to the  
28 chemical, and reliable information demonstrating the occurrence of exposures to the chemical.

29 (3) Availability of Information. The Department shall consider the extent of relevant  
30 information that is available to substantiate adverse impacts and exposures. All other factors  
31 being equal, a chemical for which there is a greater amount of relevant information to  
32 substantiate adverse impacts and exposures, relative to other chemicals being evaluated, shall  
33 be given higher priority for purposes of this subsection.

34 (4) Safer Alternatives. In addition to the factors specified in paragraphs (1) through (3),  
35 the Department may consider the availability of a safer alternative chemical that is functionally  
36 acceptable for one or more common uses of the chemical in consumer products in determining  
37 whether to list the chemical as a Chemical of Concern.

38  
39 NOTE: Authority cited: Sections 25252 and 58012, Health and Safety Code. Reference:  
40 Sections 25252 and 25257.1, Health and Safety Code.

41  
42 **§ 69502.3. Chemicals of Concern List.**

1 (a) The Department shall post an informational list of the chemicals identified as  
2 Chemicals of Concern under section 69502.2(a) on the Department's website within thirty (30)  
3 days after the effective date of these regulations. The Department shall periodically update the  
4 list to reflect changes to the underlying lists and sources from which it is drawn, using the  
5 procedures specified in subsections (c) and (d).

6 (b) The Department may make additions to, or deletions from, the Chemicals of  
7 Concern list using the factors specified in section 69502.2(b) and the procedures specified in  
8 subsections (c) and (d).

9 (c) The Department shall make proposed revisions to the Chemicals of Concern list  
10 available on its website for public review and comment, along with supporting documentation,  
11 including the Department's rationale, information, and information sources, prior to finalizing  
12 the revisions to the Chemicals of Concern list. The Department shall hold one or more public  
13 workshop(s) to provide an opportunity for oral comment on the proposed revisions to the list.  
14 The Department shall send to individuals on the listserv(s) that the Department establishes  
15 related to this chapter, and post on its website, a notice regarding the availability of the  
16 proposed revisions to the list and supporting documentation. The notice must include all of the  
17 following:

18 (1) The last day for the public to submit written comments on the proposed revisions to  
19 the Chemicals of Concern list. The last day for submission of public comments shall be forty-  
20 five (45) days from the date the availability of the proposed revisions is sent to individuals on  
21 the listserv(s) that the Department establishes related to this chapter, and posted on the  
22 Department's website;

23 (2) The method(s) for submitting comments to the Department; and

24 (3) The date, time, and location of the public workshop(s).

25 (d) The Department shall post the final revisions to the Chemicals of Concern list on its  
26 website after review of public comments. The Department may respond to some or all public  
27 comments received.

28  
29 NOTE: Authority cited: Sections 25252 and 58012, Health and Safety Code. Reference:  
30 Sections 25252 and 25257, Health and Safety Code.

### 31 32 **Article 3. Chemicals of Concern and Consumer Product Prioritization Process**

#### 33 34 **§ 69503. General.**

35 (a) This article specifies the process by which the Department shall evaluate and  
36 prioritize products containing Chemicals of Concern.

37 (b) The Department may use, but is not limited to using, information obtained and/or  
38 reviewed under section 69501.4 to perform its duties under this article.

39  
40 NOTE: Authority cited: Sections 25252, 25253, and 58012, Health and Safety Code.  
41 Reference: Sections 25252 and 25253, Health and Safety Code.

1 **§ 69503.1. Applicability.**

2 Except as provided otherwise in section 69501(b), this article applies to all products that  
3 contain one or more Chemicals of Concern, and that are placed into the stream of commerce  
4 in California.

5  
6 NOTE: Authority cited: Sections 25252, 25253, and 58012, Health and Safety Code.

7 Reference: Sections 25251, 25252, 25253, and 25257.1, Health and Safety Code.

8  
9 **§ 69503.2. Priority Products Prioritization Factors.**

10 (a) Product Prioritization Factors. The Department may evaluate products to determine  
11 the adverse impacts and exposures associated with the product by considering the factors  
12 listed in paragraphs (1) through (3) for which information is available. Based on this evaluation  
13 the Department may identify and list as a Priority Product, consistent with the provisions of  
14 subsection (b) and the processes specified in sections 69503.3 and 69503.4, one or more  
15 products that it determines to be of high priority.

16 (1) Adverse Impacts and Exposures. The Department shall consider the adverse public  
17 health and environmental impacts posed by the Chemical(s) of Concern in a product due to  
18 exposures during the life cycle of the product. The evaluation of adverse impacts and  
19 exposures must consider both of the following:

20 (A) Adverse Impacts Associated with the Chemical(s) of Concern.

21 1. The ability of the Chemical(s) of Concern in a product to contribute to or cause  
22 adverse public health and/or environmental impacts, considering reliable information relevant  
23 to the following factors:

24 a. The Chemical(s) of Concern's hazard trait(s) and/or environmental and toxicological  
25 endpoint(s);

26 b. The Chemical(s) of Concern's aggregate effects;

27 c. The Chemical(s) of Concern's cumulative effects with other chemicals with the same  
28 or similar hazard trait(s) and/or environmental or toxicological endpoint(s);

29 d. The Chemical(s) of Concern's physical chemical hazards;

30 e. The Chemical(s) of Concern's physicochemical properties;

31 f. The Chemical(s) of Concern's environmental fate;

32 g. The human populations, and/or aquatic, avian, or terrestrial animal or plant  
33 organisms for which the Chemical(s) of Concern has/have the ability to contribute to or cause  
34 adverse impacts; and

35 h. The Chemical(s) of Concern's ability to degrade, form reaction products, or  
36 metabolize into another Chemical of Concern or a chemical that exhibits one or more hazard  
37 traits and/or environmental or toxicological endpoints;

38 2. Based on reliable information, the Department shall give special consideration to the  
39 ability of the Chemical(s) of Concern in the product to contribute to or cause adverse impacts  
40 for the following:

41 a. Sensitive subpopulations;

42 b. Environmentally sensitive habitats;

1 c. Endangered and threatened species listed by the California Department of Fish and  
2 Game; and

3 d. Environments in California that have been designated as impaired by a State or  
4 federal regulatory agency.

5 3. Based on reliable information, the Department shall also give special consideration  
6 to the ability of the Chemical(s) of Concern in the product to contribute to or cause widespread  
7 adverse public health and/or environmental impacts.

8 (B) Exposures. The public and/or environmental exposures to the Chemical(s) of  
9 Concern in the product in quantities that would contribute to or cause adverse impacts,  
10 considering:

11 1. Market presence information for the product, including all of the following:

12 a. Statewide sales by volume;

13 b. Statewide sales by number of units; and

14 c. Intended product use(s), and types and age groups of targeted customer base(s);

15 2. Relevant reliable information regarding public and/or aquatic, avian, or terrestrial  
16 animal or plant organism exposures to the Chemical(s) of Concern in the product, and reliable  
17 information demonstrating the occurrence of exposures to the Chemical(s) of Concern in the  
18 product;

19 3. Information concerning the household presence of the product, and other products  
20 containing the same Chemical(s) of Concern that is/are the basis for considering listing the  
21 product as a Priority Product, including the number of such of products, how common their  
22 household presence is, the frequency of use, and the concentration of the chemical in those  
23 products; and

24 4. Public and/or aquatic, avian, or terrestrial animal or plant organism exposures to the  
25 Chemical(s) of Concern in the product during the product's life cycle, considering:

26 a. Manufacturing, use, storage, transportation, waste, and end-of-life management  
27 practices and the locations of these practices;

28 b. The types of uses that would contribute to or result in public exposure to the  
29 Chemical(s) of Concern in the product, considering:

30 i. Household and recreational use;

31 ii. Sensitive subpopulation use of, or exposure to, the product at locations frequented  
32 by members of sensitive subpopulations; and

33 iii. Workers, customers, clients, and members of the general public who use, or  
34 otherwise come in contact with, the product or releases from the product in the home,  
35 workplace, or other locations;

36 c. Frequency, extent, level, and duration of exposure for each use scenario and end-of-  
37 life scenario;

38 d. Containment of the Chemical(s) of Concern within the product;

39 e. Engineering and administrative controls; and

40 f. The ability of the Chemical(s) of Concern or its/their degradation products to be  
41 released into, migrate from, or distribute across environmental media, and the ability of the

1 Chemical(s) of Concern or its/their degradation products to accumulate and persist in  
2 biological and/or environmental compartments or systems.

3 5. Product uses, or discharges or disposals, in any manner that would contribute to or  
4 cause adverse waste and end-of-life impacts.

5 (2) Availability of Information. The Department shall consider the extent of relevant  
6 information that is available to substantiate adverse impacts and exposures. All other factors  
7 being equal, a product for which there is a greater amount of relevant information to  
8 substantiate adverse impacts and exposures, relative to other products being evaluated, shall  
9 be given a higher priority for purposes of this subsection.

10 (3) Other Regulatory Programs. The Department shall consider the scope of other  
11 California and federal laws, and international agreements with the force of domestic law, under  
12 which the product or the Chemical(s) of Concern in the product is/are regulated, and the extent  
13 to which these other regulatory requirements address, and provide adequate protections with  
14 respect to, the same adverse public health and environmental impacts and exposure pathways  
15 that are being considered as a basis for the product being listed as a Priority Product.

16 (b) Key Prioritization Factors. The Department shall, based on available information,  
17 give priority to products meeting one or more of the following criteria:

18 (1) The Chemical(s) of Concern in the product have a significant ability to contribute to  
19 or cause adverse public health and environmental impacts;

20 (2) The product is widely distributed in commerce, and widely used by consumers;

21 (3) There is a significant ability for the public and/or aquatic, avian, or terrestrial animal  
22 or plant organisms to be exposed to the Chemical(s) of Concern in the product in quantities  
23 that would contribute to or cause adverse public health or environmental impacts;

24 (4) The product contains one or more Chemical(s) of Concern in quantities that would  
25 contribute to or cause adverse public health or environmental impacts through any of the  
26 following routes of exposure:

27 (A) Inhalation;

28 (B) Ingestion; or

29 (C) Dermal; and/or

30 (5) The product is intended to be:

31 (A) Applied directly to the body;

32 (B) Dispersed as an aerosol or a vapor;

33 (C) Applied to hard surfaces with the likelihood of runoff or volatilization; or

34 (D) Released directly into the environment.

35

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

37 Reference: Sections 25252, 25253, and 25257.1, Health and Safety Code.

38

39 **§ 69503.3. Process to Evaluate Products Using the Prioritization Factors.**

40 (a) Adverse Impacts and Exposures and Availability of Information. The Department  
41 shall begin the product evaluation and identification process, specified in section 69503.2, by  
42 using available information to consider and evaluate the adverse impact and exposure factors

1 specified in section 69503.2(a)(1), along with the extent of available relevant information as  
2 specified in section 69503.2(a)(2).

3 (b) Other Regulatory Programs. Having considered the adverse impacts and the  
4 exposure pathways associated with the product and its Chemical(s) of Concern, the  
5 Department shall then, in accordance with section 69503.2(a)(3), assess whether any of these  
6 adverse impacts and/or exposures pathways are adequately addressed by other California and  
7 federal laws, and international agreements with the force of domestic law. This assessment  
8 shall be based upon available information. If a product is regulated or is subject to pending  
9 regulation by another entity, with respect to one or more adverse impacts or exposure  
10 pathways, the Department shall adjust the prioritization of the product based on whether listing  
11 the product as a Priority Product would meaningfully enhance protection of public health and/or  
12 the environment with respect to the adverse impacts and/or exposure pathways associated  
13 with the product.

14 (c) Priority Products. The Department may list as a Priority Product one or more  
15 products determined to be of high priority after completion of the steps specified in subsections  
16 (a) and (b).

17 (d) Safer Alternative. The Department may, at its discretion, consider whether there is a  
18 readily available safer alternative, that is functionally acceptable and technically and  
19 economically feasible, to further adjust the prioritization prior to listing a product as a Priority  
20 Product.

21 (e) Key Prioritization Factors. Prior to issuing the proposed and final Priority Products  
22 lists, the Department shall review and evaluate the list for consistency with the key  
23 prioritization factors specified in section 69503.2(b), and make adjustments as needed.

24 (f) Priority Product Work Plan. No later than January 1, 2014, the Department shall  
25 issue a Priority Product Work Plan that identifies and describes the product categories that the  
26 Department will evaluate to identify products to be added to the Priority Products list during the  
27 next six (6) years. The work plan must include a general explanation of the decision to select  
28 the identified product categories for evaluation during the life of the work plan.

29 (1) Subsequent to the issuance of the work plan, the Department may revise the work plan  
30 to include one or more additional product categories if necessitated by any of the following:

31 (A) The Department is required by statute to take action on a particular chemical or  
32 product, or both, prior to the expiration of the work plan;

33 (B) The Department is required by a Governor's Executive Order to take action on a  
34 particular chemical or product, or both, prior to the expiration of the work plan; or

35 (C) The Department grants a petition under section 69504.1.

36 (2) Subsequent work plans shall be issued by the Department no later than two (2) years  
37 before the six-year expiration date of the current work plan, and shall become effective upon  
38 expiration of the current work plan.

39 (3) The Department shall send to individuals on the listserv(s) that the Department  
40 establishes related to this chapter, and post on its website, a notice of the availability of each  
41 work plan, and each revised work plan.

42 (4) This subsection does not apply to the adoption of the initial list of Priority Products.

1  
2 NOTE: Authority cited: Sections 25252, 25253, and 58012, Health and Safety Code.  
3 Reference: Sections 25252, 25253, and 25257.1, Health and Safety Code.

4  
5 **§ 69503.4. Priority Products List.**

6 (a)(1) The Department shall use the procedures specified in this section and the factors  
7 and process specified in sections 69503.2 and 69503.3 to identify and list products as Priority  
8 Products.

9 (2) The Department shall specify in the proposed and final Priority Products lists the  
10 following for each listed product:

11 (A) The Chemical(s) of Concern and the hazard trait(s) that is/are the basis for the  
12 product being listed as a Priority Product.

13 (B) The alternatives analysis threshold for the Chemical(s) of Concern.

14 (C)1. If applicable, the component(s) and/or homogeneous material(s) within a  
15 component, to which the alternatives analysis threshold applies, and which is/are the required  
16 minimum focus of the AA.

17 2. For each Priority Product that is a highly durable product, the Department shall in all  
18 cases specify the number of component(s) and/or homogeneous material(s) within a  
19 component to which the alternatives analysis threshold applies, and which is/are the required  
20 minimum focus of the AA. For each listed highly durable product, the Department shall specify  
21 no more than ten (10) components and/or homogenous materials per product every three (3)  
22 years.

23 3. For purposes of subparagraph 2., “highly durable product” means a product that  
24 meets all of the following criteria:

25 a. The product is assembled from 100 or more manufactured components;

26 b. Manufacturers of the product routinely prepare information intended to be provided  
27 to consumers that indicates that the product has a useful life, or an average useful life, of five  
28 (5) or more years; and

29 c. The product is typically not consumed, destroyed, or discarded after a single use.

30 4. Subparagraph 2. does not apply to any of the following types of products:

31 a. Products designed or intended primarily for children twelve (12) years of age or  
32 younger, as determined by information made available to consumers or as determined by  
33 whether the product is commonly recognized by consumers as being intended for use by a  
34 child twelve (12) years of age or younger; or

35 b. Products intended to be worn or placed on the human body, dispersed as an aerosol  
36 or vapor, or applied to hard surfaces with the likelihood of runoff or volatilization.

37 (D) The due date for submission of the Preliminary AA Report, required under article 5.  
38 The due date for the Preliminary AA Report shall be 180 days after the date the product is  
39 listed on the final Priority Products list, unless the Department specifies a shorter or longer  
40 period of time.

41 (b) The Department shall make the proposed Priority Products list available on its  
42 website, for public review and comment, along with supporting documentation, including the

1 Department's rationale, information, and information sources, prior to finalizing the Priority  
2 Products list. The Department shall hold one or more public workshop(s) to provide an  
3 opportunity for oral comment on the proposed list. The Department shall send to individuals  
4 on the listserv(s) that the Department establishes related to this chapter, and post on its  
5 website, a notice regarding the availability of the proposed list and supporting documentation.  
6 The notice must include all of the following:

7 (1) The last day for the public to submit written comments on the proposed Priority  
8 Products list. The last day for submission of public comments shall be forty-five (45) days from  
9 the date the availability of the proposed list is sent to individuals on the listserv(s) that the  
10 Department establishes related to this chapter, and posted on the Department's website;

11 (2) The method(s) for submitting comments to the Department; and

12 (3) The date, time, and location of the public workshop(s).

13 (c) The Department shall post the final Priority Products List on its website after review  
14 of public comments. The Department may respond to some or all public comments received.

15 (d) The Department shall make the initial proposed list of Priority Products available for  
16 public review and comment under subsection (b) no later than 180 days after the effective date  
17 of these regulations. The initial list of Priority Products shall include no more than five (5)  
18 Priority Products.

19 (e) The Department shall review and revise, as appropriate, the Priority Products list at  
20 least once every three (3) years, using the procedures specified in this section.

21 (f) Each responsible entity for a product listed on the Priority Products list shall provide  
22 to the Department one of the following notifications within sixty (60) days after the product is  
23 listed as a Priority Product, or sixty (60) days after the product is first placed into the stream of  
24 commerce in California, whichever is later:

25 (1) Priority Product Notification, as specified in section 69503.7;

26 (2) Alternatives Analysis Threshold Exemption Notification, as specified in section  
27 69503.6;

28 (3) Priority Product Removal Notification and, if applicable, a Priority Product  
29 Replacement Notification, as specified in section 69501.2(b); or

30 (4) Chemical of Concern Removal Notification, as specified in section 69505.1(g).

31  
32 NOTE: Authority cited: Sections 25252, 25253, and 58012, Health and Safety Code.  
33 Reference: Sections 25252 and 25253, Health and Safety Code.

34  
35 **§ 69503.5. Alternatives Analysis Threshold Exemption.**

36 (a) A responsible entity is exempt from the requirements of article 5 with respect to a  
37 product that is listed as a Priority Product and that meets the criteria for an alternatives  
38 analysis threshold exemption specified in subsection (b), if one of the responsible entities for  
39 the product submits a complete and timely Alternatives Analysis Threshold Exemption  
40 Notification to the Department under section 69503.6, unless subsection (c) or (d) of section  
41 69503.6 applies.

1 (b) To be eligible for an alternatives analysis threshold exemption, the cumulative  
2 concentration in the product, or in each component or homogeneous material identified under  
3 section 69503.4(a)(2), whichever is applicable, of all Chemicals of Concern that exhibit the  
4 same hazard trait(s) and/or same environmental or toxicological endpoint(s) must be less than  
5 or equal to the alternatives analysis threshold for the Chemical(s) of Concern that is/are the  
6 basis for the product being listed as a Priority Product. This condition must be met as of the  
7 date of the applicable Priority Products listing, or the date the product is first placed into the  
8 stream of commerce in California, whichever is later.

9 (c)(1) The Department may specify an alternatives analysis threshold that is lower or  
10 higher than the level specified in subparagraph (A) or (B) of section 69501.1(a)(13) for the  
11 Chemical(s) of Concern in the Priority Product if the Department determines based on  
12 available information that a lower or higher alternatives analysis threshold is warranted under  
13 paragraph (2) or (3).

14 (2) The Department may specify a lower alternatives analysis threshold if one or both of  
15 the following criteria apply:

16 (A) The Chemical of Concern is found in concentrations at or below the level specified in  
17 subparagraph (A) or (B) of section 69501.1(a)(13), whichever is applicable, in products that are  
18 common and are frequently used, and reliable information shows that, even when individual  
19 product concentrations of the Chemical of Concern are below the alternatives analysis  
20 threshold, there are adverse impacts from exposures to the Chemical of Concern, or releases  
21 of the Chemical of Concern, due to one or more of the following:

- 22 1. Aggregate or cumulative exposures to the Chemical of Concern;
- 23 2. Inherent potency of the Chemical of Concern;
- 24 3. The ability of the Chemical of Concern to bioaccumulate; or
- 25 4. Unintended presence of the Chemical of Concern in organs, tissues, or fluids.

26 (B) Reliable information shows that the Chemical of Concern causes or has the ability to  
27 cause adverse impacts in concentrations at or below the level specified in subparagraph (A) or  
28 (B) of section 69501.1(a)(13), whichever is applicable.

29 (3)(A) The Department may specify a higher alternatives analysis threshold if all of the  
30 following criteria apply:

- 31 1. The source of the Chemical of Concern is one of the following:
  - 32 a. A naturally occurring contaminant in raw materials that are common and are  
33 frequently used to manufacture the product;
  - 34 b. Air or water frequently used as a processing agent or an ingredient to manufacture  
35 the product;
  - 36 c. A contaminant in recycled materials that are common and are frequently used to  
37 manufacture the product; or
  - 38 d. A processing agent or intermediate frequently used to promote certain chemical or  
39 physical changes during manufacturing, and the incidental retention of a residue is not desired  
40 or intended;
- 41 2. The concentration of the Chemical of Concern in the Priority Product does not  
42 exceed the concentration of the Chemical of Concern in the source; and

1 3. The Chemical of Concern cannot reasonably be removed from the product.

2 (B) The Department may also specify a higher alternatives analysis threshold if the  
3 concentration of the Chemical of Concern in the Priority Product cannot be detected at or  
4 below the alternative analysis threshold with available laboratory analytical methodology.

5 (C) The Department may not specify a higher alternatives analysis threshold if this  
6 would contribute to or cause increased adverse public health or environmental impacts.

7 (4) The Department may lower or raise a previously established alternatives analysis  
8 threshold based on new, or newly considered, information.

9  
10 NOTE: Authority cited: Sections 25252, 25253, and 58012, Health and Safety Code.

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

12  
13 **§ 69503.6. Alternatives Analysis Threshold Exemption Notifications.**

14 (a) A responsible entity claiming an alternatives analysis threshold exemption shall  
15 submit an Alternatives Analysis Threshold Exemption Notification, as required under section  
16 69503.5(a), to the Department within sixty (60) days after the product is listed as a Priority  
17 Product. The notification must include all of the following:

18 (1) Name of, and contact information for, the person submitting the Alternatives Analysis  
19 Threshold Exemption Notification.

20 (2) Name of, and contact information for, the manufacturer and importer(s).

21 (3) Name of, and contact information for, all responsible entities for the product, to the  
22 extent known.

23 (4) The source of the Chemical(s) of Concern in the product.

24 (5) The maximum concentration at which the Chemical(s) of Concern is/are present in  
25 the product, or in each component or homogeneous material, whichever is applicable, and a  
26 listing and description of all information used to determine and substantiate this concentration.  
27 The description must include the maximum concentration of each Chemical of Concern that is  
28 a basis for the Priority Product listing, and a description of the information used to detect and  
29 measure this concentration.

30 (6) Laboratory analytical testing protocols and results used to detect and measure the  
31 concentration of the Chemical of Concern in the product, including quality control and quality  
32 assurance protocols and information concerning the testing laboratory.

33 (7) A demonstration and certification that the responsible entity does and will continue to  
34 meet the criteria, assumptions, and conditions that are the basis for the exemption.

35 (b) The responsible entity bears the burden of proof to demonstrate that the  
36 concentration of the Chemical(s) of Concern in the product, or in each component or  
37 homogeneous material, whichever is applicable, does not exceed the applicable alternatives  
38 analysis threshold.

39 (c) The responsible entity shall submit to the Department a revised Alternative Analysis  
40 Threshold Exemption Notification, if any of the information listed in subsection (a) significantly  
41 changes. A revised Alternatives Analysis Threshold Exemption Notification must be submitted  
42 to the Department within thirty (30) days of the change.

1 (d) If the product no longer meets the criteria for an Alternatives Analysis Threshold  
2 exemption specified in section 69503.5, the responsible entity shall notify the Department of  
3 this change within thirty (30) days of the change, and shall submit a Preliminary AA Report to  
4 the Department within 180 days after the change, unless the responsible entity submits a  
5 Priority Product Removal Notification or Chemical of Concern Removal Notification within sixty  
6 (60) days of the change.

7 (e) The exemption provided under section 69503.5(a) does not apply if the Department  
8 determines, and notifies the person who submitted the Alternatives Analysis Threshold  
9 Exemption Notification, that the information or findings contained in the notification are  
10 inaccurate, invalid, or inadequate to support a alternatives analysis threshold exemption.

11  
12 NOTE: Authority cited: Sections 25252, 25253, and 58012, Health and Safety Code.

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

14  
15 **§ 69503.7. Priority Product Notifications.**

16 (a) Within sixty (60) days after a product is listed as a Priority Product, each responsible  
17 entity for such a Priority Product shall notify the Department that its product is a Priority  
18 Product, unless the responsible entity has submitted an alternate notification to the  
19 Department under section 69503.4 (f)(2) through (f)(4). For a Priority Product that is first  
20 manufactured or first placed into the stream of commerce in California after the date the  
21 product is listed as a Priority Product, the responsible entity shall provide the Priority Product,  
22 or an alternate, notification within sixty (60) days after the product is first placed into the stream  
23 of commerce in California. The notification must include all of the following:

24 (1) The responsible entity's name and contact information, and a statement indicating  
25 whether the responsible entity is the product manufacturer, importer, or retailer;

26 (2) The type, brand name(s), and product name(s) of the Priority Product, and, if  
27 applicable, information specifically identifying the component(s) and/or the homogeneous  
28 material(s) and its/their associated component(s) identified under section 69503.4(a)(2)(C);  
29 and

30 (3) If applicable, the name of, and contact information for, the person that will be  
31 complying with the requirements of article 5 on behalf of or in lieu of the responsible entity.

32 (b) If the Department determines that the notice requirements specified in subsection (a)  
33 have not been complied with for a particular product that is a Priority Product, the Department  
34 shall post this information on the Failure to Comply List under section 69501.2(d).

35  
36 NOTE: Authority cited: Sections 25252, 25253, and 58012, Health and Safety Code.

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

38  
39 **Article 4. Petition Process for Identification and Prioritization of Chemicals and**  
40 **Products**

41  
42 **§ 69504. Applicability and Petition Contents.**

1 (a) Except as provided in subsection (b), a person may petition the Department to  
2 evaluate a claim that a chemical or a product that contains a chemical should be listed or  
3 delisted as a Chemical of Concern or a Priority Product, whichever is applicable, using the  
4 processes specified in articles 2 and/or 3 of this chapter. A petition must include all of the  
5 following:

6 (1) The name of, and contact information for, both of the following persons:

7 (A) The petitioner; and

8 (B) The person responsible for the contents of the petition, if different from the petitioner,  
9 and the affiliation of this person with the petitioner;

10 (2) A description of the chemical and/or product that is the subject of the petition;

11 (3) A description of the uses and applications of the chemical and/or product;

12 (4) The basis for the petition, including an analysis of the scientific basis for concern  
13 regarding adverse public health and/or environmental impacts associated with the chemical  
14 and/or product;

15 (5) Reliable information supporting the petition; and

16 (6) The identity of any known manufacturers and importers of the chemical or product.

17 (b) A person may not petition the Department to evaluate a claim to delist any Chemical  
18 of Concern specified by the Department in the initial adoption of these regulations.

19 (c) Within sixty (60) days after receiving a petition, the Department shall review the  
20 petition and shall designate the petition complete if it contains all of the items specified in  
21 subsection (a). If the Department determines that a petition is incomplete, the Department  
22 shall notify the petitioner of this determination and shall specify the basis for the determination.  
23 If the Department determines that a petition is complete, the Department shall notify the  
24 petitioner that it will conduct a merits review to determine whether to grant or deny the petition.  
25

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

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

#### 28 § 69504.1. Merits Review of Petitions.

29 (a) The Department shall determine whether to grant or deny a complete petition in  
30 accordance with the processes specified in articles 2 and/or 3. The Department shall make its  
31 determination no later than the next regular update of the Chemicals of Concern or Priority  
32 Products list, as applicable. The Department shall give high priority to responding to petitions  
33 by federal and other California State agencies that relate to the petitioning agency's statutory  
34 and/or regulatory authorities.

35 (b) The Department's merits review of each complete petition shall be based on:

36 (1) The comprehensiveness of the information submitted that pertains to the factors  
37 specified in sections 69502.2 and/or 69503.2, as applicable;

38 (2) The quality of the information submitted; and

39 (3) The availability of information, other than that submitted with the petition, that  
40 supports the petitioner's claims that:  
41

1 (A) The chemical exhibits one or more hazard traits or environmental or toxicological  
2 endpoints; and

3 (B) An evaluation of the chemical and/or the product, based on the factors specified in  
4 sections 69502.2 and/or 69503.2, as applicable, indicates adverse public health and/or  
5 environmental impacts.

6 (c) The Department may request that the petitioner provide additional information to  
7 assist the merits review, within a timeframe specified by the Department.

8 (d) After completing the merits review, the Department shall:

9 (1) Prepare a notice of decision to grant or deny the petition, and a statement explaining  
10 the basis for the decision; and

11 (2) Notify the petitioner of the decision.

12  
13 NOTE: Authority cited: Sections 25252, 25253, and 58012, Health and Safety Code.

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

15  
16 **Article 5. Alternatives Analysis**

17  
18 **§ 69505. Guidance Materials.**

19 (a) Before finalizing the initial list of Priority Products under section 69503.4, the  
20 Department shall make available on its website guidance materials to assist persons in  
21 performing AAs in accordance with this article. The Department shall periodically revise and  
22 update the guidance materials.

23 (b) The Department shall also post on its website AAs that the Department is aware of,  
24 and that are available in the public domain at no cost and are supported by reliable  
25 information. The posting must indicate, for each AA, the name of the person that prepared the  
26 AA.

27  
28 NOTE: Authority cited: Sections 25253 and 58012, Health and Safety Code. Reference:  
29 Sections 25252 and 25253, Health and Safety Code.

30  
31 **§ 69505.1. Alternatives Analysis: General Provisions.**

32 (a)(1) All references in this article to “Priority Product” mean a product that has a been  
33 listed on the Priority Products list under Article 3, or, if applicable, the component(s) and/or  
34 homogeneous material(s) within a component in the product that are the focus of the AA. If  
35 applicable, the AA must at a minimum include those component(s) and/or homogeneous  
36 material(s) that is/are identified under section 69503.4(a)(2)(C). The responsible entity may  
37 elect to expand the focus of the AA to include additional components and/or homogeneous  
38 materials or the entire product.

39 (2) All references in this article to “product” mean the product as a whole.

40 (b) This article does not apply to any of the following:

41 (1) A product that is no longer placed into the stream of commerce in California by any  
42 person on and after the date that the product is included on the Priority Products list.

1 (2) A Priority Product that meets the alternatives analysis threshold exemption criteria  
2 specified in section 69503.5, if a complete and timely Alternatives Analysis Threshold  
3 Exemption Notification has been submitted to the Department satisfying the requirements of  
4 section 69503.6, unless subsection (d) or (e) of section 69503.6 applies.

5 (c)(1) The requirements of this article applicable to a responsible entity may be fulfilled  
6 entirely by the responsible entity, or entirely by a person acting on behalf of or in lieu of the  
7 responsible entity. Alternatively, the responsible entity may choose to fulfill some requirements  
8 themselves with other requirements being fulfilled by a person acting on behalf of or in lieu of  
9 the responsible entity.

10 (2) Except as otherwise provided in subsections (b), (f), and (g) and section 69505.2 (b)  
11 and (c), a responsible entity for a product that contains one or more Chemicals of Concern,  
12 that is/are the basis for inclusion of the product on the Priority Product list, shall conduct an AA  
13 for the Priority Product, and shall comply with all applicable requirements of this article.

14 (3) A responsible entity subject to the requirements of paragraph (2) shall prepare, sign,  
15 and submit to the Department AA Reports, meeting the requirements of section 69505.5, as  
16 follows:

17 (A) Except as provided in subsection (d)(1), the responsible entity shall submit the  
18 Preliminary AA Report no later than 180 days after the date the product is listed on the final  
19 Priority Products list posted on the Department's website, unless the Department specifies a  
20 different due date for the product in the Priority Products list under section 69503.4(a)(2)(D).

21 (B) Except as provided in subsection (d)(1), the responsible entity shall submit the Final  
22 AA Report no later than twelve (12) months after the date the Department issues a notice of  
23 compliance for the Preliminary AA Report, unless the responsible entity requests, under  
24 section 69505.5(k)(1), and the Department approves, under section 69505.6(a)(3), a longer  
25 period of time.

26 (C) For a product that is first placed into the stream of commerce in California after the  
27 date the product is listed on the Priority Products list, the due date for the Preliminary AA  
28 Report shall be 180 days after the product is first placed into the stream of commerce in  
29 California.

30 (d)(1) A responsible entity may request, and the Department may grant, a one-time  
31 extension of up to ninety (90) days to the submission deadline for either the Preliminary or  
32 Final AA Report, or both, if the extension request is based on circumstances that could not  
33 reasonably be anticipated or controlled by the responsible entity. The extension request must  
34 be received at least sixty (60) days before the applicable due date.

35 (2) The extension request must include all of the following:

36 (A) The name of, and contact information for, the person filing the extension request;

37 (B) The name of, and contact information for, the responsible entity(ies) on whose  
38 behalf the AA Reports will be submitted;

39 (C) If different from subparagraphs (A) and (B), the name of, and contact information for,  
40 the manufacturer and the importer of the product;

41 (D) Information identifying and describing the product, and, if applicable, the  
42 component(s) and/or homogeneous material(s) and its/their associated component(s) subject

1 to the AA requirement, including the brand name(s) and product name(s) under which the  
2 product is placed into the stream of commerce in California;

3 (E) The due date for the Preliminary or Final AA Report, as applicable;

4 (F) The amount of additional time requested; and

5 (G) The reason the extension is needed, including an explanation as to why the  
6 circumstances necessitating the extension could not reasonably be anticipated or controlled by  
7 the responsible entity.

8 (3) The Department shall approve or deny, in whole or in part, the extension request,  
9 and notify the person submitting the extension request of the decision, within thirty (30) days of  
10 receipt of the extension request. Failure by the Department to issue a decision within thirty  
11 (30) days does not constitute an approval of the extension request.

12 (e) Each AA completed after January 1, 2016 shall be performed, and each Preliminary  
13 and Final AA Report submitted after January 1, 2016 shall be prepared by, or under the  
14 responsible charge of, one or more assessor(s) certified under article 8 for the appropriate  
15 product type or industry sector.

16 (f) A responsible entity may fulfill the requirements of subsection (c) by submitting to  
17 the Department a report for a previously completed AA for the Priority Product, if the  
18 Department determines that the report is substantially equivalent to the Final AA Report  
19 requirements of section 69505.5, and that the report contains sufficient information for the  
20 Department to identify regulatory response(s) under article 6.

21 (1) A responsible entity submitting a report under this subsection shall submit the report  
22 no later than the deadline for submitting a Preliminary AA Report, under subsection (c)(3)(A),  
23 except that a one-time extension may be requested under subsection (d).

24 (2) A responsible entity submitting an existing report under this subsection may  
25 supplement the report with additional information to render the report substantially equivalent  
26 to the Final AA Report requirements of section 69505.5.

27 (g) Chemical of Concern Removal Notification. If a responsible entity reformulates the  
28 Priority Product to remove the Chemical(s) of Concern, that is/are the basis for the Priority  
29 Product listing, without adding a substitute chemical, the responsible entity may submit a  
30 Chemical of Concern Removal Notification to the Department in lieu of conducting an AA and  
31 submitting an AA Report.

32 (1) A responsible entity submitting a Chemical of Concern Removal Notification under  
33 this subsection shall submit the notification no later than the deadline for submitting the  
34 Preliminary AA Report under subsection (c)(3)(A).

35 (2) The Chemical of Concern Removal Notification must include all of the following:

36 (A) The name of, and contact information for, the person submitting the notification;

37 (B) The name of, and contact information for, the responsible entity(ies) on whose  
38 behalf the notification is being submitted;

39 (C) If different from subparagraphs (A) and (B), the name of, and contact information for,  
40 the manufacturer and the importer of the product;

41 (D) Information identifying and describing the original product and the reformulated  
42 product, including the brand name(s) and labeling information for both products;

1 (E) The intended uses, and targeted customer base(s), for the product and the  
2 reformulated product;

3 (F) The measures the responsible entity will take to ensure the product that contained  
4 the Chemical(s) of Concern is no longer placed into the stream of commerce in California; and

5 (G) The Chemical(s) of Concern removed from the product, and both of the following:

6 1. Information explaining the rationale and the factors considered in selecting the  
7 reformulation; and

8 2. Laboratory analytical testing, quality control, and quality assurance protocols used to  
9 detect and measure the Chemical(s) of Concern in the product that ensures the Chemical(s) of  
10 Concern have been removed.

11 (h) A responsible entity conducting an AA under this article shall consider all relevant  
12 information made available on the Department's website, including any relevant public  
13 comments, and any additional information or technical assistance the Department may provide  
14 regarding alternatives analysis. The responsible entity shall summarize these efforts in the AA  
15 Report.

16 (i) Notwithstanding any other provision of this chapter, failure of the Department to  
17 make a compliance determination for a Preliminary or Final AA Report within the applicable  
18 timeframe specified in section 69505.6, or failure of the Director or the Department to respond  
19 to an appeal or Request for Review submitted under article 7 within sixty (60) days, shall not  
20 cause a Preliminary or Final AA Report to be deemed compliant with this article.

21  
22 NOTE: Authority cited: Sections 25253 and 58012, Health and Safety Code. Reference:  
23 Sections 25252 and 25253, Health and Safety Code.

24  
25 **§ 69505.2. Analysis of Priority Products and Alternatives.**

26 (a)(1) The AA required to be performed under section 69505.1(c) must be conducted in  
27 two stages, as specified in sections 69505.3 and 69505.4.

28 (2) The responsible entity shall complete the first stage of the AA, and submit a  
29 Preliminary AA Report that complies with sections 69505.1(c)(3)(A) and 69505.5.

30 (3) The responsible entity shall next complete the second stage of the AA, and submit a  
31 Final AA Report that complies with sections 69505.1(c)(3)(B) and 69505.5.

32 (b) After completion of the first three (3) steps of the first stage of the AA, under  
33 subsections (b)(1) through (b)(3) of section 60505.3, a responsible entity that determines a  
34 functionally acceptable alternative is not available or feasible may prepare and submit an  
35 Abridged AA Report, in lieu of Preliminary and Final AA Reports, if all of the following  
36 requirements are met:

37 (1) The responsible entity summarizes, in the Abridged AA Report, the first stage AA  
38 findings in conformance with the applicable requirements of section 69505.5;

39 (2) The responsible entity identifies the factors relevant for comparison of alternatives,  
40 as specified in section 69505.4(a), and summarizes, in the Abridged AA Report, its findings  
41 with respect to section 69505.4(a) in conformance with the applicable requirements of section  
42 69505.5;

1 (3) The responsible entity submits an Abridged AA Report to the Department by the due  
2 date specified in section 69505.1(c)(3)(A); and

3 (4) The responsible entity specifies in the implementation plan included in the Abridged  
4 AA Report the milestones and dates for implementation of proposed regulatory responses,  
5 which shall, at a minimum, include the regulatory response required under section 69506.9.

6 (c) A responsible entity may use an AA process that differs from the process specified  
7 in sections 69505.3 and 69505.4, if all of the following requirements are met:

8 (1) The responsible entity's alternate process provides the information needed to  
9 prepare an AA Report that substantially meets the requirements of section 69505.5.

10 (2) The responsible entity's alternate process compares the Priority Product and the  
11 alternatives using, at a minimum, the same factors, and associated exposure pathways and life  
12 cycle segments, specified in sections 69505.3 and 69505.4.

13 (3) The responsible entity submits a work plan to the Department with sufficient  
14 information to demonstrate that the alternate process will meet the requirements of paragraphs  
15 (1) and (2), and sufficient information for the Department to specify an appropriate due date for  
16 submittal of the Final AA Report.

17 (A) If the work plan includes information for which trade secret protection is claimed, the  
18 responsible entity shall also submit a redacted copy of the work plan, which shall exclude the  
19 information for which trade secret protection is claimed.

20 (B) The work plan shall be accompanied by an executive summary sufficient to convey  
21 to the public a general understanding of the work plan.

22 1. The executive summary must be organized in conformance with the organization of  
23 the work plan. The responsible entity may not include in the executive summary any  
24 information for which trade secret protection is claimed.

25 2. If the Department subsequently rejects a trade secret claim, the responsible entity  
26 shall, at the Department's request, submit a revised executive summary within thirty (30) days  
27 of the request to add any information for which a trade secret claim is rejected and which the  
28 Department determines, and specifies in its request, must be included in the executive  
29 summary.

30 (C)1. The work plan must be submitted to the Department no later than sixty (60) days  
31 after the product is included on the Priority Products list. Upon receipt of a work plan under  
32 this subsection, the Department shall follow the steps specified for the review of Preliminary  
33 AA Reports in section 69505.6(a).

34 2. For a product that is first placed into the stream of commerce in California after the  
35 date the product is included on the Priority Products list, the due date for the work plan shall be  
36 sixty (60) days after the product is first placed into the stream of commerce in California.

37 (D) The due date for the Final AA Report shall be eighteen (18) months after the date  
38 the Department issues a notice of compliance for the work plan, unless the responsible entity  
39 requests, under section 69505.5(k)(1), and the Department approves, under section  
40 69505.6(a)(3), a longer period of time. The additional time shall not exceed thirty (30) months  
41 after the Department issues a notice of compliance for the work plan.

1 (4) The responsible entity submits a Final AA Report to the Department that  
2 substantially meets the requirements of section 69505.5 by the due date specified by the  
3 Department under paragraph (3).

4 (d)(1) A responsible entity may select a different alternative from the one identified as the  
5 selected alternative in the Final AA Report submitted to the Department, if both of the following  
6 requirements are met:

7 (A) The responsible entity shall submit a revised Final AA Report that identifies and  
8 explains the differences in the information from the original Final AA Report to the revised Final  
9 AA Report. The responsible entity shall identify the information used to support the revisions  
10 to the Final AA Report.

11 (B) The revised Final AA Report must be submitted to the Department at least sixty (60)  
12 days prior to placing the selected alternative product into the stream of commerce in California.

13 (2) Paragraph (1) also applies if the selection decision in the original Final AA Report  
14 was to retain the Priority Product, and the responsible entity later decides to select an  
15 alternative to replace the Priority Product.

16  
17 NOTE: Authority cited: Sections 25253 and 58012, Health and Safety Code. Reference:  
18 Sections 25252, 25253, and 25257, Health and Safety Code.

19  
20 **§ 69505.3. Alternatives Analysis: First Stage.**

21 (a) All references in this section to “Chemical(s) of Concern” mean the Chemical(s) of  
22 Concern that is/are the basis for the product being included on the Priority Products list.

23 (b) The first stage of the AA shall include all of the following steps:

24 (1) Step 1, Identification of Product Requirements and Function of Chemical(s) of  
25 Concern.

26 (A) The responsible entity shall identify the function, performance, technical feasibility,  
27 and legal requirements associated with the Priority Product that must be met by the  
28 alternatives being considered.

29 (B) The responsible entity shall identify the function of the Chemical(s) of Concern in  
30 meeting the Priority Product’s requirements identified under subparagraph (A).

31 (C)1. The responsible entity shall determine if the Chemical(s) of Concern or substitute  
32 chemical(s) is/are necessary to meet the Priority Product’s requirements identified under  
33 subparagraph (A).

34 2. If the responsible entity determines that neither the Chemical(s) of Concern nor  
35 substitute chemical(s) is/are necessary to meet the Priority Product’s function, performance,  
36 technical feasibility, and legal requirements, the responsible entity shall evaluate as one of the  
37 alternatives to the Priority Product the removal of the Chemical(s) of Concern from the Priority  
38 Product without the addition of substitute chemical(s).

39 (2) Step 2, Identification of Alternatives.

40 (A)1. In addition to any alternative identified under paragraph (1)(C)2., the responsible  
41 entity shall identify alternatives that meet the definition of “alternative” under section  
42 69501.1(a)(11) and meet the requirements identified under paragraph (1)(A) for the Priority

1 Product, and that eliminate or reduce the concentration of the Chemical(s) of Concern in the  
2 Priority Product and/or reduce or restrict public and/or environmental exposures to the  
3 Chemical(s) of Concern in the Priority Product.

4 2. The responsible entity shall research available information, including information  
5 posted on the Department's website under section 69505(b), that may identify existing viable  
6 alternatives for consideration in the AA. The responsible entity shall consider any such  
7 identified alternatives in the AA.

8 (B) Alternatives that do not involve the addition of a substitute chemical do not require  
9 completion of the steps specified in paragraph (3).

10 (3) Step 3, Initial Screening of Alternative Chemicals.

11 For those alternatives being considered that involve substituting the Chemical(s) of  
12 Concern with other chemical(s), the responsible entity shall do all of the following:

13 (A) Collect and use available information on hazard traits and toxicological and  
14 environmental endpoints, and any other relevant data, to identify all of the following for each  
15 alternative chemical being considered:

- 16 1. Adverse public health impacts;
- 17 2. Adverse environmental impacts;
- 18 3. Environmental fate;
- 19 4. Physical chemical hazards; and
- 20 5. Physicochemical properties.

21 (B) Compare each of the alternative chemicals being considered with the Chemical(s) of  
22 Concern in the Priority Product, using the information collected and evaluated under  
23 subparagraph (A); and

24 (C) Eliminate from further consideration in the AA any alternative chemical(s) that the  
25 responsible entity determines poses greater adverse public health and/or environmental  
26 impacts than the Chemical(s) of Concern.

27 (4) Step 4, Consideration of Additional Information.

28 As part of the first stage of the AA, the responsible entity may also consider other relevant  
29 information and data not specifically identified in this section. This may include consideration  
30 of the factors and information identified in section 69505.4.

31 (5) Step 5, Identification of Next Steps.

32 (A) The responsible entity shall prepare a work plan and proposed implementation  
33 schedule for completion of the second AA stage, as specified in section 69505.4, and  
34 preparation and submittal of the Final AA Report.

35 (B) The responsible entity shall prepare and submit to the Department a Preliminary AA  
36 Report as specified under section 69505.5.

37  
38 NOTE: Authority cited: Sections 25253 and 58012, Health and Safety Code. Reference:  
39 Sections 25252, 25253, and 25257, Health and Safety Code.

40  
41 **§ 69505.4. Alternatives Analysis: Second Stage.**

42 The second stage of the AA shall include all of the following steps:

1 (a) Step 1, Identification of Factors Relevant for Comparison of Alternatives.

2 (1) A factor, in conjunction with an associated exposure pathway and life cycle segment,  
3 is relevant if:

4 (A) It makes a demonstrable contribution to the adverse impacts of the Priority Product  
5 and/or one or more of the alternatives under consideration, and there is a demonstrable  
6 difference in the contribution to the adverse impacts between two or more of the alternatives  
7 being considered.

8 (B) For purposes of subparagraph (A), a responsible entity shall include retaining the  
9 Priority Product as one of the alternatives being considered.

10 (2) The responsible entity shall collect and use available quantitative information and  
11 analysis tools, supplemented by available qualitative information and analysis tools, to identify  
12 the factors listed in subparagraphs (A) through (C), and the associated exposure pathways  
13 and life cycle segments, that are relevant for the comparison of the Priority Product and the  
14 alternatives still under consideration after completion of the first AA stage as specified in  
15 section 69505.3:

16 (A) Multimedia life cycle impacts and chemical hazards for chemical ingredients known  
17 to be in the Priority Product and the alternatives being considered based on available  
18 information on:

- 19 1. Adverse environmental impacts;
- 20 2. Adverse public health impacts;
- 21 3. Adverse waste and end-of-life impacts.
- 22 4. Environmental fate;
- 23 5. Materials and resource consumption impacts;
- 24 6. Physical chemical hazards; and
- 25 7. Physicochemical properties;

26 (B) Product function and performance, meaning the principal use(s) or application(s) of  
27 a product by a consumer, as intended by the manufacturer, including function and  
28 performance attributes, and legal requirements. This evaluation shall include, at a minimum,  
29 all of the following:

- 30 1. Useful life of the Priority Product, and that of the alternatives being considered;
- 31 2. Comparison of function and performance for each alternative relative to the Priority  
32 Product and each of the other alternatives being considered, and identification of the source  
33 and basis for the function and performance metrics used; and
- 34 3. A determination of whether a “technically and economically feasible alternative”  
35 exists;

36 (C) Economic impacts. The responsible entity’s evaluation and comparison of economic  
37 impacts shall take into account all projected direct and indirect cost impacts during the life  
38 cycle of the product and the alternatives being considered. A cost impact is an increase or  
39 decrease in one or more of the following:

- 40 1. Capital;
- 41 2. Consumer costs associated with the purchase or lease and use of the product;
- 42 3. Government agency, public, and/or business costs associated with the product;

- 1 4. Jobs or businesses;
  - 2 5. Manufacturing costs;
  - 3 6. Marketing costs;
  - 4 7. Materials and resource consumption costs; and/or
  - 5 8. Waste and end-of-life management costs.
- 6 (3) The responsible entity's identification of relevant exposure pathways shall consider
- 7 both of the following:
- 8 (A) Chemical quantity information:
    - 9 1. Quantities of the Chemical(s) of Concern or alternative chemical(s) necessary to
    - 10 manufacture the Priority Product and each alternative being considered; and
    - 11 2. Estimated volume and/or mass of the Chemical(s) of Concern or substitute
    - 12 chemical(s) that is/are or would be placed into the stream of commerce in California as a result
    - 13 of the Priority Product and each alternative being considered.
  - 14 (B) Exposure factors specified in subsections (a)(1)(B), (b)(4), and (b)(5) of section
  - 15 69503.2.
- 16 (b) Step 2, Comparison of the Priority Product and Alternatives.
- 17 The responsible entity shall use available quantitative information and analyses,
- 18 supplemented by available qualitative information and analysis, to evaluate and compare the
- 19 Priority Product and each of the alternatives under consideration with respect to each relevant
- 20 factor and associated exposure pathways and life cycle segments identified under subsection
- 21 (a). The responsible entity shall compare each alternative with the Priority Product and with
- 22 each of the other alternatives being considered. The responsible entity shall identify and/or
- 23 document, as appropriate, all of the following information:
- 24 (1) Quantitative metrics, where available and appropriate, for each of the relevant
  - 25 factors identified under subsection (a)(2);
  - 26 (2) Qualitative metrics for any relevant factors for which quantitative metrics are not
  - 27 available or appropriate;
  - 28 (3) Available data for each metric for the Priority Product and each alternative being
  - 29 considered;
  - 30 (4) Any absent or conflicting data regarding a relevant factor, and either or both of the
  - 31 following, as appropriate:
    - 32 (A) Available data that is most protective of public health and the environment, unless
    - 33 there are sound methodological reasons for rejecting such data; and/or
    - 34 (B) A value for the metric, using a method for dealing with data uncertainty due to
    - 35 absent or missing data that has been adopted by an authoritative organization, as defined in
    - 36 subsection (b) of section 69401.2, or generally accepted in peer reviewed literature;
  - 37 (5) A description of the performance of the Priority Product and each alternative, with
  - 38 respect to each of the relevant factors;
  - 39 (6) Appropriate qualitative and/or quantitative relative weights for the relevant factors,
  - 40 and the rationale for the assignment of the relative weights;
  - 41 (7) An evaluation of the overall performance of each alternative as compared to the
  - 42 Priority Product and the other alternatives, including discussion of the impact of the weight

1 placed upon the relevant factors, the rationale for choosing the particular method for  
2 determining the overall evaluation, and the sensitivity of the comparative evaluation to data  
3 uncertainty; and

4 (8) Any other known evaluation of the Priority Product or one or more of the alternatives  
5 that comes to different conclusions, regarding the relative overall performance or public health  
6 and/or environmental impacts, and the reasons for the difference in the conclusions.

7 (c) Step 3, Alternative Selection Decision.

8 The responsible entity shall select the alternative that will replace or modify the Priority  
9 Product, unless the decision is to retain the existing Priority Product. The selection of an  
10 alternative or the decision to retain the Priority Product shall be based on and supported by the  
11 comparative analysis conducted under subsection (b).

12 (d) Step 4, Consideration of Additional Information.

13 As part of the second stage of the AA, the responsible entity may also consider other  
14 relevant information and data not specifically identified in this section. This may include  
15 reconsideration of the factors and information identified in section 69505.3.

16 (e) Step 5, Identification of Next Steps.

17 (1) The responsible entity shall prepare a Final AA report that contains an  
18 implementation schedule for implementing the selected alternative, if any, and/or proposed  
19 regulatory responses, if any.

20 (2) The responsible entity shall prepare and submit to the Department a Final AA Report  
21 as specified under section 69505.5.

22  
23 NOTE: Authority cited: Sections 25253 and 58012, Health and Safety Code. Reference:  
24 Sections 25252, 25253, and 25257, Health and Safety Code.

## 25 26 **§ 69505.5. Alternatives Analysis Reports.**

27 (a) All references in this section to "AA Reports" mean the Preliminary and Final AA  
28 Report, unless otherwise specified.

29 (1) The Preliminary and Final AA Reports must each include, as applicable, all of the  
30 information specified in subsections (b) through (k).

31 (2) The responsible entity shall include in the AA Reports sufficient information for the  
32 Department to determine compliance with this article.

33 (3) The responsible entity shall include in the Preliminary AA Report sufficient  
34 information for the Department to determine the appropriate due date for submission of the  
35 Final AA Report.

36 (4) The responsible entity shall include in the Final AA Report sufficient information for  
37 the Department to determine the appropriate regulatory response(s), if any, under article 6.

38 (5) The responsible entity shall identify and explain in the Final AA Report all differences  
39 in the information and analyses presented in the Preliminary AA Report and the Final AA  
40 Report. The responsible entity must identify in the Final AA Report the information sources  
41 used to support changes from the Preliminary AA Report to the Final AA Report.

1 (b) Publicly Available AA Reports.

2 (1) The responsible entity shall maximize the scope of information in the AA Report that  
3 can be made available to the public, while maintaining protection of legitimate trade secrets.  
4 AA Reports must be accompanied by a publicly available executive summary sufficient to  
5 convey a general understanding of the scope and results of the AA. The executive summary  
6 must be organized in conformance with the organization of the AA Report and must include,  
7 for each section of the AA Report, a detailed summary of the information presented. The  
8 responsible entity may not include in the executive summary any information for which trade  
9 secret protection is claimed.

10 (2) If the AA Report contains information claimed by the responsible entity to be a trade  
11 secret, a separate publicly available AA Report shall be submitted to the Department that  
12 masks claimed trade secret information only to the extent necessary to protect its confidential  
13 nature.

14 (3) If the Department subsequently rejects a trade secret claim and/or the nature and/or  
15 extent of masking, the responsible entity shall, at the Department's request, submit a revised  
16 publicly available AA Report and executive summary within thirty (30) days of the request to  
17 add any information for which a trade secret claim or masking is rejected.

18 (c) Preparer Information.

19 (1) The name of, and contact information for, the person submitting the AA Report;

20 (2) If applicable, the name of, and contact information for, all responsible entities on  
21 whose behalf the AA Report is being submitted; and

22 (3) The names of the parties that were involved in funding, directing, overseeing,  
23 preparing, and/or reviewing the AA, and the qualifications and certification information,  
24 demonstrating compliance with article 8, for the individual(s) in responsible charge under  
25 whose direction the AA was conducted and the AA Report was prepared.

26 (d) Responsible Entity and Supply Chain Information.

27 (1) The name of, contact information for, and headquarters location of the  
28 manufacturer(s) and the importer, if applicable, and, if the AA Report is prepared on behalf of a  
29 consortium of manufacturers or other persons in the Priority Product's supply chain, a list of  
30 the participants along with their corresponding contact information;

31 (2) The name of, and contact information for, any persons identified on the product label  
32 as the manufacturer, importer, or distributor;

33 (3) The name of, and contact information for, all persons in California, other than the  
34 final purchaser or lessee, to whom the manufacturer or importer directly sold the Priority  
35 Product within the prior twelve (12) months; and

36 (4) Identification and location of the manufacturer's and/or importer's retail sales outlets  
37 where the manufacturer and/or importer sold, supplied, or offered for sale the product in  
38 California, if applicable.

39 (5) The proximity of the place(s) of product manufacture to one or more source(s) of  
40 virgin or recycled materials that directly or indirectly influences the type and/or amount of  
41 Chemical(s) of Concern in the Priority Product.

42 (e) Product Information.

- 1 (1) The brand name(s) and product name(s) under which the product is placed into the  
2 stream of commerce in California;
- 3 (2) If applicable, the component(s) and/or homogeneous material(s) and its/their  
4 associated component(s) that is/are the focus of the AA;
- 5 (3) Identification of the Chemical(s) of Concern in the Priority Product that is/are the  
6 basis for the product being included on the Priority Product list, and any other Chemical(s) of  
7 Concern that is/are known, or reasonably should be known based on available information, to  
8 be in the product; and
- 9 (4) The information specified in section 69505.3(b)(1).
- 10 (f) Scope and Comparison of Alternatives. The AA Reports must identify and describe  
11 the alternatives chosen to be evaluated and compared, and explain the rationale for selecting  
12 and screening out specific alternatives at each stage of the alternatives comparison process.
- 13 (1)(A) The Preliminary AA Report must include all of the following information for the  
14 evaluation and comparison, conducted under section 69505.3(b), of the Chemical(s) of  
15 Concern in the Priority Product and possible alternative chemical(s):
- 16 1. The information collected for the Chemical(s) of Concern and alternative  
17 chemical(s); and
- 18 2. The comparative results of evaluating the information presented under  
19 subparagraph 1.
- 20 (B) The information required under subparagraph (A) must be presented in a matrix, or  
21 other format, that provides the reviewer with an easily understood visual comparison of the  
22 chemicals and their adverse impacts.
- 23 (2) The Final AA Report must include all of the following information for the evaluation  
24 and comparison of the Priority Product and its alternatives conducted under sections  
25 69505.3(b) and 69505.4:
- 26 (A) A matrix, or other format, that provides the reviewer with an easily understood visual  
27 comparison that presents all of the following, as applicable, for the evaluations conducted  
28 under sections 69505.3(b) and 69505.4:
- 29 1. The relevant exposure pathways and life cycle segments for each relevant  
30 comparison factor;
- 31 2. The information collected for each relevant factor, and associated exposure  
32 pathways and life cycle segments, for the Priority Product and each alternative considered;  
33 and
- 34 3. The comparative results of evaluating the information presented under  
35 subparagraph 2.
- 36 (B) A description, if applicable, of how safeguards provided by other federal and  
37 California State regulatory programs were considered in the AA, including identification of  
38 those programs and safeguards considered.
- 39 (3) The responsible entity shall demonstrate in the Final AA Report that all of the  
40 requirements of section 69505.4(b) have been met.
- 41 (g) Scope of Relevant Comparison Factors. The Final AA Report must identify which  
42 factors, and associated exposure pathways and life cycle segments, were determined to be

1 relevant, under section 69505.4(a), for evaluation and comparison of the Priority Product and  
2 its alternatives. For each factor, exposure pathway, and life cycle segment determined not be  
3 relevant, the Final AA Report must explain the rationale and identify, and explain the pertinent  
4 findings of, the supporting information for this determination.

5 (h) Methodology. The AA Report shall identify and describe the analysis tools, models,  
6 and software used to conduct the AA, and discuss any limitations of these tools, models, and  
7 software. The AA Report shall also identify any published methodologies or guidelines used,  
8 and any deviations taken from the published methodologies or guidelines.

9 (i) Supporting Information.

10 (1) All information used as supporting information in performance of the AA and  
11 preparation of the AA Reports must be cited in the AA Reports and made available to the  
12 Department, upon request. The AA Reports must include a brief summary of the information  
13 reviewed and considered under section 69505.1(h).

14 (2) The Final AA Report must include the identification of information that is not  
15 currently available but, if available, could be used to:

16 (A) Validate information used for purposes of sections 69505.3(b) and 69505.4;

17 (B) Address any uncertainties in the analyses conducted under sections 69505.3(b) and  
18 69505.4; and

19 (C) Ensure that the list of chemical ingredients required to be identified for the product  
20 and its alternatives during the conduct of the AA and the preparation of the AA Reports is  
21 complete.

22 (j) Selected Alternative(s).

23 (1) The Preliminary AA Report must identify and describe the alternatives selected for  
24 further evaluation in the second stage of the AA, and explain the rationale for the selection  
25 decision.

26 (2) The Final AA Report must identify and describe the alternative, if any, selected to  
27 replace or modify the Priority Product. The description of the selection decision must include  
28 an analysis that evaluates and compares the selected alternative against the Priority Product  
29 and a detailed list and explanation of the reasons for the selection decision, or, alternatively,  
30 for the decision not to select and implement an alternative to the Priority Product, whichever is  
31 applicable. The Final AA Report must also include all of the following:

32 (A) The information specified in section 69505.4(a)(2)(B) for the selected alternative. If  
33 no alternative is selected, this information must be provided for each alternative considered.

34 (B) An explanation of the rationale for deciding to retain the Chemical(s) of Concern or  
35 to use substitute chemical(s), if section 69505.3(b)(1)(C)2. applies, and the selected alternative  
36 retains the Chemical(s) of Concern, that is/are the basis for the product being included on the  
37 Priority Products list, or uses substitute chemical(s).

38 (C) A list of all chemical ingredients known, based on available information, to be in the  
39 selected alternative that differ from the chemical ingredients in the Priority Product or that are  
40 present in the selected alternative at a higher concentration than in the Priority Product, and all  
41 of the following information that is available for those chemicals:

42 1. Environmental fate;

- 1        2.        Hazard trait(s) and environmental and toxicological endpoint(s) information for any of  
2 those chemicals for which such information has not already been provided to the Department  
3 under this chapter;
- 4        3.        Information on the purity, meaning the relative freedom from extraneous matter, of  
5 the chemicals and identification of known impurities and additives in the chemical;
- 6        4.        Physical chemical hazards;
- 7        5.        Physicochemical properties; and
- 8        6.        Substance identification information, including all of the following that are applicable:
- 9        a.        Chemical abstract services number;
- 10       b.        Structural formula;
- 11       c.        Molecular weight;
- 12       d.        Synonyms;
- 13       e.        International Union of Pure and Applied Chemistry name;
- 14       f.        European Commission number;
- 15       g.        Registry of Toxic Effects of Chemical Substances number;
- 16       h.        International Union of Biochemistry and Molecular Biology number;
- 17       i.        Japan Ministry of International Trade and Industry number;
- 18       j.        Number assigned by the United Nations Experts on the Transport of Dangerous  
19 Goods;
- 20       k.        North America Department of Transportation number;
- 21       l.        European Inventory of Existing Commercial Chemical Substances number;
- 22       m.        European List of Notified Chemical Substances number;
- 23       n.        European Commission Directive 67/548/EEC No Longer Polymers number; and
- 24       o.        Other commonly recognized substance identification system numbers.
- 25       (k)       Next Steps.
- 26       (1)       The Preliminary AA Report must include the work plan and proposed implementation  
27 schedule required to be prepared under section 69505.3(b)(5).
- 28       (A)       The work plan and implementation schedule must specify the proposed submission  
29 date for the Final AA Report, and must ensure that the Final AA Report will be submitted to the  
30 Department no later than twelve (12) months after the Department issues a notice of  
31 compliance for the Preliminary AA Report.
- 32       (B)       The responsible entity may request an extension for submittal of the Final AA  
33 Report, not to exceed twenty-four (24) months from the date the Department issues a notice of  
34 compliance for the Preliminary AA Report. The extension request must include a detailed  
35 explanation of why additional time is needed. If the Priority Products list identifies more than  
36 one component or homogeneous material that must be included in the AA for the product,  
37 separate submission dates may be proposed for each component and/or homogeneous  
38 material. If the responsible entity chooses to include additional components and/or  
39 homogeneous materials in the AA, separate submission dates may be proposed for each of  
40 those components and/or homogeneous materials.
- 41       (C)       The responsible entity may request an extension for submittal of the Final AA  
42 Report, not to exceed thirty-six (36) months from the date the Department issues a notice of

1 compliance for the Preliminary AA Report, if the additional time is needed to conduct  
2 regulatory safety and/or performance testing on multiple alternatives prior to making an AA  
3 selection decision. The extension request must include a detailed explanation of why  
4 additional time is needed.

5 (2) The Final AA Report must include a detailed implementation plan as specified in  
6 section 69505.4(e).

7 (A) The implementation plan must include key milestones and dates for implementing  
8 the selected alternative, if applicable, and identify applicable federal, state, or local laws and  
9 steps that will be taken to ensure compliance with those laws.

10 (B) The implementation plan may also include the identification of any regulatory  
11 response(s) that the responsible entity wishes to propose that would best limit the exposure to,  
12 or reduce the level of adverse public health and environmental impacts posed by, any  
13 Chemical(s) of Concern that will be in the selected alternative or that is in the Priority Product if  
14 the decision resulting from the AA is to retain the Priority Product.

15

16 NOTE: Authority cited: Sections 25253 and 58012, Health and Safety Code. Reference:  
17 Sections 25252, 25253, and 25257, Health and Safety Code.

18

19 **§ 69505.6. Department Review and Determinations for AA Reports.**

20 (a)(1) Within sixty (60) days of receiving a Preliminary AA Report, the Department shall  
21 review the Preliminary AA Report for compliance with this article, and issue a notice of  
22 compliance, a notice of deficiency, or a notice of ongoing review.

23 (2)(A) The Department shall specify in a notice of deficiency the areas of deficiency and  
24 the due date for submitting the necessary information to complete the Preliminary AA Report.  
25 The due date for correcting the areas of deficiency may not exceed sixty (60) days from the  
26 date the notice of deficiency is issued. The responsible entity shall submit a revised  
27 Preliminary AA Report by the due date specified, and address the areas of deficiency.

28 (B) Within thirty (30) days of receipt of the additional information requested in the notice  
29 of deficiency, the Department shall issue a notice of compliance, a notice of disapproval, or a  
30 notice of ongoing review for the Preliminary AA Report. If the Preliminary AA Report is  
31 disapproved, the Department shall explain the basis for the disapproval in the notice. The  
32 Department shall also issue a notice of disapproval if a revised Preliminary AA Report is not  
33 submitted by the due date specified under subparagraph (A). A disapproved Preliminary AA  
34 Report is not in compliance with section 69505.1(c)(2).

35 (3) The Department shall specify in a notice of compliance the date for submitting the  
36 Final AA Report. The Department shall specify a due date that is twelve (12) months from the  
37 date the Department issues the notice of compliance, except that the Department may specify  
38 more time for submission of the Final AA Report if it determines based on information in the  
39 Preliminary AA Report that more time is needed. The Department may not establish a due  
40 date for the Final AA Report that is more than twenty-four (24) months from the date the  
41 Department issues the notice of compliance for the Preliminary AA Report, except as provided  
42 in section 69505.1(d).

1 (b)(1) Within sixty (60) days of receiving a Final AA Report, the Department shall review  
2 the AA Report for compliance with the requirements of this article, and shall issue a notice of  
3 compliance, a notice of deficiency, or a notice of ongoing review.

4 (2) The Department shall specify in a notice of deficiency the areas of deficiency and  
5 the due date for submitting the necessary information to complete the Final AA Report. The  
6 due date for correcting the areas of deficiency may not exceed sixty (60) days from the date  
7 the notice of deficiency is issued. The responsible entity shall submit a revised Final AA  
8 Report by the due date specified, and address all areas of deficiency. If requested by the  
9 responsible entity, the Department may approve a one-time extension, of not more than sixty  
10 (60) days, for submission of the revised Final AA Report to correct the deficiencies.

11 (3) Within sixty (60) days of receipt of the requested additional information, the  
12 Department shall issue a notice of compliance, a second notice of deficiency, or a notice of  
13 ongoing review.

14 (A) If the Department issues a second notice of deficiency, the Department may grant  
15 no more than thirty (30) days for resubmission of the requested information.

16 (B) Within sixty (60) days of receipt of the additional information requested in the second  
17 notice of deficiency, the Department shall issue a notice of compliance, a notice of disapproval,  
18 or a notice of ongoing review for the Final AA Report. If the Final AA Report is disapproved,  
19 the Department shall explain the basis for the disapproval in the notice. The Department shall  
20 also issue a notice of disapproval if a revised Final AA Report is not submitted by the due date  
21 specified under paragraph (2) or subparagraph (A), whichever is applicable. A disapproved  
22 Final AA Report is not in compliance with section 69505.1(c)(2).

23 (c)(1) If the Final AA Report is determined to be in compliance with this article, the  
24 Department shall include in the notice of compliance, or in a separate notice sent to the  
25 manufacturer and all responsible entities known to the Department, a notice of the  
26 Department's proposed determination, if any, that one or more of the regulatory responses  
27 specified in sections 69506.2, 69506.5, 69506.6, 69506.7, 69506.9, and/or 69506.10 is/are  
28 required.

29 (2) If the Department requires one or more regulatory responses under sections  
30 69506.2, 69506.5, 69506.6, 69506.7, 69506.9, and/or 69506.10, the Department shall specify  
31 in the notice the proposed due date(s) for implementation of the regulatory response(s). In  
32 assigning a due date for completing a regulatory response, the Department shall consider the  
33 complexity of implementing the regulatory response.

34 (d) The Department shall specify in a notice of ongoing review the estimated date by  
35 which the Department expects to issue a notice of compliance or notice of deficiency. The  
36 Department shall take into account its available resources and the complexity of the AA Report  
37 under review in estimating the date for issuance of a notice of compliance or notice of  
38 deficiency.

39 (e) All notices issued by the Department under this section shall be issued to the person  
40 who submitted the AA Report, and a copy of the notice shall be sent by the Department to all  
41 persons identified in the AA Report under subsections (c)(2) and (c)(3) of section 69505.5.  
42

1 NOTE: Authority cited: Sections 25253 and 58012, Health and Safety Code. Reference:  
2 Section 25253, Health and Safety Code.

3  
4 **Article 6. Regulatory Responses**

5  
6 **§ 69506. Regulatory Response Selection Principles.**

7 (a) The Department shall identify and require implementation of regulatory responses  
8 designed to protect human health and the environment, and maximize the use of alternatives  
9 of least concern, where such alternatives are technically and economically feasible.

10 (b) In selecting regulatory responses, the Department shall give preference to regulatory  
11 responses providing the greatest level of inherent protection. For these purposes, “inherent  
12 protection” refers to avoidance or reduction of adverse impact or exposure that is achieved  
13 through the redesign of a product or process, rather than through administrative or engineering  
14 controls designed to limit exposure to, or the release of, a Chemical of Concern in a product.

15 (c) In selecting regulatory responses, the Department may consider any or all of the  
16 following factors:

17 (1) The likely actual effectiveness of the regulatory response, including the capacity of  
18 responsible entities to comply, and the ability of end-users to understand and act upon any  
19 information and directions provided with respect to the product;

20 (2) The relative cost-effectiveness of the regulatory response as compared to other  
21 possible responses;

22 (3) The administrative and other burdens placed upon the Department, the responsible  
23 entities, the product end-users, and the public;

24 (4) Any unique or additional burdens that would be imposed by the regulatory response  
25 upon sensitive subpopulations; and

26 (5) The ease and efficacy of enforcement of the regulatory response.

27  
28 NOTE: Authority cited: Sections 25253 and 58012, Health and Safety Code. Reference:  
29 Section 25253, Health and Safety Code.

30  
31 **§ 69506.1. Applicability and Determination Process.**

32 (a) This article applies to any product placed into the stream of commerce in California  
33 that is:

34 (1) An alternative selected under section 69505.4(c);

35 (2) A Priority Product for which an alternative is not selected; or

36 (3) A Priority Product that will remain in commerce in California pending development  
37 and distribution of a selected alternative.

38 (b) Prior to issuing a final regulatory response determination notice under sections  
39 69506.5, 69506.6, 69506.7, 69506.9, and/or 69506.10, the Department, as required under  
40 section 69505.5(c), shall notify all known responsible entities for the product of the proposed  
41 regulatory response(s), and make the proposed regulatory response determination notice  
42 available on its website, for public review and comment. The Department shall hold one or

1 more public workshop(s) to provide an opportunity for oral comment on the proposed  
2 regulatory response determination. The Department shall send to individuals on the listserv(s)  
3 that the Department establishes related to this chapter, and post on its website, a notice  
4 regarding the availability of the proposed regulatory response determination. The notice must  
5 include all of the following:

6 (1) The last day for the public to submit written comments on the proposed regulatory  
7 response determination. The last day for submission of public comments shall be forty-five  
8 (45) days from the date the availability of the proposed regulatory response determination  
9 notice is sent to individuals on the listserv(s) that the Department establishes related to this  
10 chapter, and posted on the Department's website;

11 (2) The method(s) for submitting comments to the Department; and

12 (3) The date, time, and location of any public workshop(s).

13 (c) After review and consideration of public comments, the Department shall finalize and  
14 send to known responsible entities the final regulatory response determination notice. The  
15 Department may respond to some or all public comments received.

16 (d) All proposed and final regulatory response determination notices must include all of  
17 the following:

18 (1) A description of the required regulatory response(s);

19 (2) The Department's basis for requiring the regulatory response(s);

20 (3) The rationale, information, and information sources supporting the Department's  
21 determination(s); and

22 (4) The implementation due date(s) for the regulatory response(s).

23 (e) In assigning a due date for a regulatory response, the Department shall consider the  
24 complexity of implementing the regulatory response.

25

26 NOTE: Authority cited: Sections 25253 and 58012, Health and Safety Code. Reference:  
27 Section 25253, Health and Safety Code.

28

29 **§ 69506.2. AA Report Supplemental Information Requirements.**

30 (a) The Department may at any time require a responsible entity to provide, within a  
31 time frame specified by the Department, any information supplementary to the Final AA Report  
32 that the Department determines is necessary to select and ensure implementation of one or  
33 more regulatory responses that may be imposed under this article.

34 (b) The Department may at any time require a responsible entity to obtain or develop,  
35 within a time frame specified by the Department, information to fill one or more of the  
36 information gaps identified in the Final AA Report, under section 69505.5(i)(2), if the  
37 Department determines this information is needed to re-evaluate, under section 69506.10(b),  
38 the initial regulatory response(s) imposed for a selected alternative or a Priority Product that  
39 remains in commerce.

40

41 NOTE: Authority cited: Sections 25253 and 58012, Health and Safety Code. Reference:  
42 Section 25253, Health and Safety Code.

1  
2 **§ 69506.3. No Regulatory Response Required.**

3 No regulatory response under sections 69506.4 through 69506.10 is required for the  
4 selected alternative, if the Department determines the selected alternative does not pose  
5 adverse public health or environmental impacts.  
6

7 NOTE: Authority cited: Sections 25253 and 58012, Health and Safety Code. Reference:  
8 Section 25253, Health and Safety Code.  
9

10 **§ 69506.4. Product Information for Consumers.**

11 (a)(1) Except as provided in paragraph (2), this section applies to selected alternative  
12 products, Priority Products for which an alternative is not selected, and Priority Products which  
13 remain in commerce in California pending development and distribution of an alternative  
14 product for longer than twelve (12) months after the Department issues a notice of compliance  
15 for the Final AA Report. Beginning no later than twelve (12) months after the Department  
16 issues a notice of compliance for the Final AA Report for the product, and for as long thereafter  
17 as the product is placed into the stream of commerce in California, the responsible entity shall  
18 ensure that all of the following information is made available to the consumer prior to exposure  
19 to any Chemical(s) of Concern:

20 (A) Manufacturer's name and importer's name;

21 (B) Brand name(s) and product name(s), and description of the product;

22 (C) A list of, and common names for, all Chemicals of Concern known to be in the  
23 product, and known hazards traits for those chemicals, based on available information;

24 (D) Any safe handling procedures needed to protect public health or the environment  
25 during the useful life of the product, including precautions that consumers may take to prevent  
26 or limit exposure to the Chemical(s) of Concern;

27 (E) Identification of any end-of-life management requirements specified by law, and any  
28 existing end-of-life management program(s) for the product; and

29 (F) The manufacturer's website address and the importer's website address where the  
30 consumer can obtain additional information about the product, the adverse public health and/or  
31 environmental impacts associated with the product, and proper end-of-life disposal or  
32 management of the product.

33 (2) If the product contains no Chemical(s) of Concern above the applicable alternatives  
34 analysis threshold specified in section 69501.1(a)(13), then paragraph (1) does not apply.

35 (b) The responsible entity shall satisfy subsection (a) by making the required information  
36 available to consumers, in easily seen, legible, and understandable formats, by both:

37 (1) Posting the information in a prominent place on the manufacturer's website and the  
38 importer's website; and

39 (2) Using one or both of the following means of informing consumers at the point of sale  
40 of the information specified in subsection (a):

41 (A) Providing the required information on the product packaging or in accompanying  
42 written material that is accessible without breaking the product seal; and/or

1 (B) Posting the information in a prominent place at the point of retail display.

2  
3 NOTE: Authority cited: Sections 25253 and 58012, Health and Safety Code. Reference:  
4 Section 25253, Health and Safety Code.

5  
6 **§ 69506.5. Use Restrictions on Chemical(s) of Concern and Consumer Products.**

7 (a) The Department may impose restrictions on the use of one or more Chemicals of  
8 Concern in a selected alternative, or in a Priority Product for which an alternative is not  
9 selected, or restrictions on the use of the product itself, to reduce the ability of the product to  
10 contribute to or cause adverse public health and/or environmental impacts. Use restrictions  
11 may include one or more of the following:

12 (1) Restrictions on the amount or concentration of the Chemical(s) of Concern permitted  
13 in a product;

14 (2) Restrictions on the settings in which a product may be sold or used;

15 (3) Restrictions regarding the form in which a product is sold;

16 (4) Restrictions on who may purchase and/or use a product;

17 (5) Requirements for training of product purchasers and/or users; and

18 (6) Any other use restriction that reduces the amount of any Chemical(s) of Concern in  
19 the product, or reduces the ability of the product to contribute to or cause an exposure to the  
20 Chemical(s) of Concern in the product.

21  
22 NOTE: Authority cited: Sections 25253 and 58012, Health and Safety Code. Reference:  
23 Section 25253, Health and Safety Code.

24  
25 **§ 69506.6. Product Sales Prohibition.**

26 (a) This section does not apply to a product that does not contain any Chemical of  
27 Concern above the applicable alternatives analysis threshold specified in section  
28 69501.1(a)(13).

29 (b) Except as provided in section 69506.3 and subsection (e), the requirements of  
30 subsection (c) apply to a selected alternative that contains one or more Chemical(s) of  
31 Concern, or a Priority Product for which an alternative is not selected, if the Department  
32 determines and notifies the responsible entity, under section 69506.1, that there is a safer  
33 alternative that does not contain a Chemical of Concern and that is both functionally  
34 acceptable and technically and economically feasible. In making such a determination, the  
35 Department shall consider the exposure pathways that have the ability to contribute to or  
36 cause adverse public health and/or environmental impacts.

37 (c) Any responsible entity that is the subject of a notification issued under subsection (b)  
38 shall cease to place the noticed product into the stream of commerce in California within one  
39 (1) year after the Department issues the notification, unless the notification specifies a shorter  
40 period of time.

41 (d)(1) Except as provided in section 69506.3 and subsection (e), the Department may  
42 issue a notification, under section 69506.1, of its determination that a product containing a

1 Chemical of Concern may no longer be placed into the stream of commerce in California,  
2 notwithstanding that there are no currently identified safer alternatives that are both  
3 functionally acceptable and technically and economically feasible.

4 (2) Prior to issuing a notification under paragraph (1), the Department shall request the  
5 responsible entity to provide, within sixty (60) days, documentation that demonstrates to the  
6 Department's satisfaction both of the following:

7 (A) The overall beneficial public health and environmental impacts of the product  
8 significantly outweigh the overall adverse public health and environmental impacts of the  
9 product; and

10 (B) Administrative and/or engineering restrictions on the nature and use of the product  
11 will adequately protect public health and the environment.

12 (3) The Department may issue a notification under paragraph (1) if the responsible  
13 entity does not provide the requested documentation with sixty (60) days, or if the submitted  
14 documentation does not make the required demonstrations to the Department's satisfaction.

15 (4) Any responsible entity that is the subject of a notification issued by the Department  
16 under paragraph (1) shall cease to place the noticed product into the stream of commerce in  
17 California within one (1) year after the Department issues the notification, unless the  
18 notification specifies a shorter period of time.

19 (e) A responsible entity that receives a notification under subsection (b) or (d) is not  
20 subject to the requirements of subsection (c) or (d) if all of the following requirements are met:

21 (1) Within sixty (60) days after the notification is issued by the Department, the  
22 responsible entity notifies the Department in writing of its intent to submit a revised Final AA  
23 Report that selects an alternative that does not contain a Chemical of Concern;

24 (2) Within one (1) year after the notification is issued by the Department, unless the  
25 Department specifies a shorter period of time in the notification, the Department receives a  
26 revised Final AA Report that selects an alternative that does not contain a Chemical of  
27 Concern and that meets the requirements of section 69505.5; and

28 (3) The product containing one or more Chemical(s) of Concern is completely removed  
29 from commerce in California by the date specified by the Department in the notice of  
30 compliance or notice of disapproval for the revised Final AA Report submitted under paragraph  
31 (2), or in a separate notice issued under section 69505.6(c). The completion date shall be no  
32 longer than three (3) years after the Department issues the notice of compliance or notice of  
33 disapproval.

34 (f)(1) A responsible entity may request a one-time extension to the due date for the  
35 revised Final AA Report to be submitted under subsection (e), under the procedures specified  
36 in section 69505.1(d).

37 (2) If the Department grants an extension, the responsible entity shall satisfy one of the  
38 following requirements by the due date specified in the extension approval:

39 (A) A revised Final AA Report meeting the requirements of subsection (e)(2) shall be  
40 submitted to the Department; or

41 (B) The product shall cease to be placed into the stream of commerce in California.  
42

1 NOTE: Authority cited: Sections 25253 and 58012, Health and Safety Code. Reference:  
2 Section 25253, Health and Safety Code.

3  
4 **§ 69506.7. Engineered Safety Measures or Administrative Controls**

5 (a) The Department may, under subsection (b), impose requirements that control  
6 access to or limit exposure to Chemical(s) of Concern in a selected alternative product, or a  
7 Priority Product for which an alternative is not selected, to reduce the likelihood of adverse  
8 public health and/or environmental impacts.

9 (b) Engineering or administrative controls may be imposed by the Department to either  
10 integrally contain the Chemical(s) of Concern within the structure of the product or limit  
11 exposure to the Chemical(s) of Concern, if one or more of the following applies:

12 (1) Reliable information indicates the presence of the Chemical(s) of Concern, or its/their  
13 degradate, metabolite, or reaction products, in a particular subpopulation that has one or more  
14 routes of exposure to the chemical(s);

15 (2) Reliable information indicates an elevated level of the Chemical(s) of Concern in an  
16 indoor building or other enclosed environment; and

17 (3) Improper product handling would increase the likelihood of release of, or exposure to,  
18 the Chemical(s) of Concern.

19  
20 NOTE: Authority cited: Sections 25253 and 58012, Health and Safety Code. Reference:  
21 Section 25253, Health and Safety Code.

22  
23 **§ 69506.8. End-of-Life Management Requirements.**

24 (a) Except as provided in section 69506.3, a responsible entity for a selected  
25 alternative, or a Priority Product for which an alternative is not selected, that is sold or  
26 otherwise made available to consumers as a finished product and is required to be managed  
27 as a hazardous waste in California at the end of its useful life, shall ensure that the following  
28 requirements are met:

29 (1) The information required by section 69506.4 shall be provided for the product.  
30 Additionally, the product information must state that the product must be disposed of or  
31 otherwise managed as a hazardous waste at the end of its useful life.

32 (2) No later than one (1) year after the Department issues a notice of compliance for the  
33 Final AA Report for the product, the responsible entity shall fund, establish, and maintain an  
34 end-of-life management program for the product. The program must comply with all of the  
35 following requirements:

36 (A) A comprehensive product stewardship plan must be developed and maintained,  
37 after being submitted to the Department for approval. The plan must include all of the  
38 following:

39 1. A list of, and contact information for, participating manufacturers, importers, and  
40 other participating persons.

41 2. The scope of products to be covered by the plan.

- 1       3.       The roles and responsibilities for manufacturers, importers, retailers, consumers,  
2 and government throughout the life cycle of the product, and identification of retailers who  
3 have agreed to participate in the program.
- 4       4.       Identification and description of collection systems that will be used.
- 5       5.       End-of-life management information, that includes the steps that will be taken to  
6 ensure compliance with all applicable federal and California State and local laws, and that  
7 addresses any adverse multimedia impacts.
- 8       6.       Anticipated resources needed to implement and sustain the plan, including  
9 identification of any third-party product stewardship organization collecting and administering a  
10 fee to fund the stewardship program.
- 11      7.a.      A financial guarantee provided by the responsible entity to insure a sustainable end-  
12 of-life management program for the product.
- 13      b.       “Financial guarantee” means any mechanism, including the mechanisms described  
14 in article 8 of chapter 14, to ensure that adequate funding is available to pay for future end-of-  
15 life management costs for products placed into the stream of commerce in California.
- 16      8.       Program performance goals, which shall be quantitative to the extent feasible, for:  
17      a.       Increasing the capture rate of covered products at the end-of-life; and  
18      b.       Increasing recyclability.
- 19      9.       A description of how each program goal will be achieved.
- 20      10.      Public education, outreach, and communications plans.
- 21      11.      A description of public and stakeholder consultation activities during preparation,  
22 and in periodic review and updating, of the plan.
- 23      12.      Reporting and evaluation procedures.
- 24      (B)      The product stewardship program and plan for collecting and, if applicable, recycling  
25 the product shall be developed in consultation with California retailers and owners/operators of  
26 prospective collection sites. The collection program must include one or both of the following:  
27      1.       Collection mechanisms; and  
28      2.       Compensation to retailers and other persons who agree to administer or participate  
29 in the collection program.
- 30      (C)      The responsible entity shall provide its product stewardship plan to the Department  
31 for review and approval, post a copy of the product stewardship plan on its own website, and  
32 provide a link to the posting to the Department for posting on the Department’s website.
- 33      (D)      The responsible entity for a product subject to the requirements of this section shall  
34 ensure that a report is provided to the Department annually from the date the end-of-life  
35 management program is required to be implemented. The report must include, by total  
36 tonnage:  
37      1.       The quantity of products placed into the stream of commerce in California over the  
38 previous one-year period; and  
39      2.       The quantity of products recovered over the same one-year period.
- 40      (b)      Multiple responsible entities may form a third-party product stewardship  
41 organization, funded by participating manufacturers and other responsible entities, to provide

1 local services to collect, recycle, or otherwise appropriately manage covered products at the  
2 end-of-life.

3 (c) A responsible entity subject to the requirements of this section may request the  
4 Department's approval to substitute an alternative end-of-life management program that  
5 achieves, to the maximum extent feasible, the same results as the program required by this  
6 section. A responsible entity may not substitute an alternative end-of-life management  
7 program for the program specified in this section unless it receives advanced written approval  
8 from the Department.

9 (d) A responsible entity subject to the requirements of this section may request an  
10 exemption from the requirement to provide an end-of-life management program by  
11 demonstrating to the Department's satisfaction in the Final AA Report that an end-of-life  
12 management program cannot feasibly be implemented for the product.

13  
14 NOTE: Authority cited: Sections 25253 and 58012, Health and Safety Code. Reference:  
15 Section 25253, Health and Safety Code.

16  
17 **§ 69506.9. Advancement of Green Chemistry and Green Engineering.**

18 The Department may require a manufacturer to initiate a research and development project  
19 or fund a challenge grant pertinent to the Priority Product that uses green chemistry and/or  
20 green engineering principles to do one or more of the following:

- 21 (a) Design a safer alternative to the Priority Product;  
22 (b) Improve the performance of a safer alternative to the Priority Product;  
23 (c) Decrease the cost of the safer alternative to the Priority Product; and/or  
24 (d) Increase the market penetration of a safer alternative to the Priority Product.

25  
26 NOTE: Authority cited: Sections 25253 and 58012, Health and Safety Code. Reference:  
27 Section 25253, Health and Safety Code.

28  
29 **§ 69506.10. Regulatory Response Selection and Re-Evaluation.**

30 (a) The Department may impose one or more regulatory responses specified in section  
31 69506.2 and sections 69506.4 through 69506.9 to situations other than those specified, and/or  
32 any other requirements the Department determines accomplishes the goals of article 14 of  
33 chapter 6.5 of division 20 of the Health and Safety Code.

34 (b) The Department may periodically re-evaluate any regulatory response imposed  
35 under this section to determine if changes are needed based upon changed circumstances or  
36 information identified since a regulatory response was selected, including information that fills  
37 one or more of the information gaps identified in the Final AA Report under section  
38 69505.5(i)(2). The Department may accordingly require a new AA to be performed, and  
39 Preliminary and Final AA Reports to be submitted to the Department, in a specified time  
40 period.

41

1 NOTE: Authority cited: Sections 25253 and 58012, Health and Safety Code. Reference:  
2 Section 25253, Health and Safety Code.

3  
4 **§ 69506.11. Exemption from Regulatory Response Requirements.**

5 (a) A product is exempt from the requirements of this article, if the responsible entity  
6 requests, and the Department grants, an exemption. A responsible entity seeking an  
7 exemption shall submit an exemption request to the Department no later than whichever of the  
8 following dates is applicable:

9 (1) Sixty (60) days after the Department issues a notice to the responsible entity under  
10 sections 69505.6(c); or

11 (2) Sixty (60) days after the Department issues a notice of compliance for a Final AA  
12 Report for a product subject to sections 69506.4 or 69506.8.

13 (b) An exemption request submitted under subsection (a) must include all of the  
14 following:

15 (1) The name of, and contact information for, the person filing the exemption request;

16 (2) The name of, and contact information for, the responsible entity(ies) on whose  
17 behalf the exemption request is being submitted;

18 (3) If different from paragraphs (1) and (2), the name of, and contact information for, the  
19 manufacturer and the importer of the product;

20 (4) The name of, and contact information for, other responsible entities for the product,  
21 to the extent known to the person submitting the exemption request;

22 (5) Information identifying and describing the product, including the brand name(s) and  
23 product name(s) under which the product is placed into the stream of commerce in California,  
24 and information specifically identifying the component and/or homogeneous material and  
25 its/their associated component, if applicable; and

26 (6) Information that demonstrates to the Department's satisfaction that one or both of  
27 the following applies:

28 (A) The required or proposed regulatory response would conflict with one or more  
29 requirements of another California or federal regulatory program or an international trade  
30 agreement with the force of domestic law, in such a way that the responsible entity cannot  
31 reasonably be expected to comply with both requirements; and/or

32 (B) The required or proposed regulatory response substantially duplicates one or more  
33 requirements of another California or federal regulatory program or an international trade  
34 agreement with the force of domestic law, without conferring additional public health or  
35 environmental protection benefits.

36 (c) Within sixty (60) days of receiving an exemption request, the Department shall issue  
37 a notice to the person who submitted the request granting or denying the exemption request.  
38 The Department shall send a copy of the notice to known responsible entities for the product.

39 (d) If the exemption request or the Department's granting of the exemption is based  
40 solely on the criteria specified in subsection (b)(6)(A), the Department may require  
41 implementation of a modified regulatory response that resolves the conflict that is the basis for  
42 the exemption.

1 (e) The Department shall rescind an exemption granted under this section if the  
2 Department determines that the facts and/or assumptions that the Department relied upon in  
3 granting the exemption were not, or are no longer, valid. If the Department rescinds an  
4 exemption, the Department shall notify the person who submitted the exemption request and  
5 known responsible entities for the product.

6 (f) The Department shall include in all notices granting, denying, or rescinding an  
7 exemption under this section a statement of basis for its decision and a new due date for  
8 compliance, if applicable.

9  
10 NOTE: Authority cited: Sections 25253 and 58012, Health and Safety Code. Reference:  
11 Sections 25253 and 25257.1, Health and Safety Code.

12  
13 **§ 69506.12. Regulatory Response Report and Notifications.**

14 (a) A responsible entity subject to a regulatory response under this article, except for the  
15 regulatory responses specified in sections 69506.2 and 69506.9, shall ensure that a notice is  
16 sent to all retailers who sell the product in California, informing the retailers of the applicability  
17 of the regulatory response to the product. The notice shall be sent to the retailers, and a copy  
18 sent to the Department, no later than whichever of the following dates is applicable:

19 (1) Thirty (30) days after receiving a final regulatory response determination notice,  
20 under section 69506.1; or

21 (2) Thirty (30) days after the Department issues a notice of compliance for a Final AA  
22 Report for a product subject to section 69506.4 or 69506.8.

23 (b) The notice required under subsection (a) shall include all of the following:

24 (1) The name of, and contact information for, the manufacturer and the importer;

25 (2) The responsible entity's name and contact information, if different from the  
26 manufacturer or importer;

27 (3) Information identifying and describing the original Priority Product, and the selected  
28 alternative, including the brand name(s) and product name(s) under which the product is  
29 placed into the stream of commerce in California, and the name(s) of any persons identified as  
30 the manufacturer, importer, and/or distributor on the product label; and

31 (4) A description of the required regulatory response(s) and the due date for  
32 implementing the regulatory response(s).

33 (c) The responsible entity shall notify the Department upon completing implementation  
34 of the required regulatory response(s) and, if applicable, upon completing development and  
35 introduction into the California marketplace of the selected alternative. The notification must  
36 include information describing how the regulatory response(s) was/were implemented. If  
37 requested by the Department, the responsible entity shall provide periodic implementation  
38 status reports regarding the selected regulatory response(s). The information provided to the  
39 Department under this subsection shall also be posted on the website of the responsible entity.

40 (d)(1) The Department shall prepare and post on its website, and update at least annually,  
41 a Regulatory Response Summary that identifies the regulatory response(s) for each selected  
42 alternative for a Priority Product, or for the Priority Product, whichever is applicable. The

- 1 Regulatory Response Summary must contain all of the following for which information is  
2 available:
- 3 (A) The name of, and contact information for, the manufacturer and the importer;
  - 4 (B) The names of, and contact information for, other known responsible entities;
  - 5 (C) Information identifying and describing the original Priority Product, and the selected  
6 alternative, if any, including the brand name(s) and product name(s) under which the product is  
7 placed into the stream of commerce in California;
  - 8 (D) The due date and actual date for completing development and introduction into the  
9 California marketplace of the selected alternative, if any;
  - 10 (E) The regulatory response(s), if any;
  - 11 (F) The applicable section(s) in this article specifying the regulatory response(s);
  - 12 (G) The implementation due date(s), and the actual implementation date(s), for the  
13 regulatory response(s); and
  - 14 (H) Other information provided to the Department under subsections (a) and (b).
- 15 (2) The Department shall also include in the Regulatory Response Summary the  
16 information specified in paragraphs (1)(A) through (1)(D) for each exemption granted by the  
17 Department under section 69506.11.

18

19 NOTE: Authority cited: Sections 25253 and 58012, Health and Safety Code. Reference:  
20 Sections 25253 and 25257, Health and Safety Code.

21

## 22 **Article 7. Dispute Resolution Processes**

23

### 24 **§ 69507. Dispute Resolution.**

25 (a) This article applies to any responsible entity that wishes to dispute a decision made by  
26 the Department under this chapter that applies to the responsible entity, except as otherwise  
27 provided in subsection (c).

28 (b) The procedures set out in this article are required for resolving disputes arising under  
29 this chapter. If the responsible entity fails to follow the procedures specified in this article for  
30 disputes subject to this article, it waives its right to further contest the disputed issue  
31 administratively.

32 (c) A decision made by the Department under article 2, 4, or 10 is not subject to dispute  
33 resolution under this article.

34 (d) A requirement imposed by the Department under this chapter on a responsible entity,  
35 and any posting concerning the requirement on the Failure to Comply list under section  
36 69501.2(d), is stayed during the pendency of an administrative dispute concerning the  
37 requirement.

38

39 NOTE: Authority cited: Sections 25252, 25253, and 58012, Health and Safety Code.  
40 Reference: Sections 25252, 25253, and 25257.1, Health and Safety Code.

41

#### 42 **§ 69507.1. Informal Dispute Resolution Procedures.**

1 (a) For a dispute regarding a decision made by the Department under the provisions of  
2 this chapter, other than sections 69506.5, 69506.6, 69506.7, 69506.9, 69506.10, and  
3 69506.11, a responsible entity may, within thirty (30) days following the notice or website  
4 posting of the Department's decision that is the basis of the dispute, request that the  
5 Department informally resolve the dispute. The Department shall provide the responsible  
6 entity with an opportunity to resolve the dispute informally within thirty (30) days of receiving  
7 the request for dispute resolution. If a request for informal dispute resolution is not received  
8 within thirty (30) days of the notice or website posting of the Department's decision, the  
9 Department's decision is final and is not eligible for any dispute resolution procedures under  
10 this article.

11 (b) If the responsible entity disagrees with the Department's decision following  
12 completion of the informal dispute resolution process, the responsible entity may appeal to the  
13 Director of the Department under section 69507.2.

14  
15 NOTE: Authority cited: Sections 25252, 25253, and 58012, Health and Safety Code.  
16 Reference: Sections 25252, 25253, and 25257.1, Health and Safety Code.

17  
18 **§ 69507.2. Appeal to the Director.**

19 (a) A responsible entity appealing the Department's decision following completion of the  
20 informal dispute resolution process shall submit information stating the basis for seeking  
21 further review, and the reasons why the decision does not comport with the requirements of  
22 this chapter or is otherwise unreasonable. The responsible entity shall also provide all of the  
23 following:

- 24 (1) The original statement of dispute;  
25 (2) Supporting documents; and  
26 (3) Copies of responses prepared by the Department.

27 (b) The responsible entity appealing a Department decision shall file the appeal with the  
28 Department's Director within thirty (30) days after completion of the informal dispute resolution  
29 process under section 69507.1.

30 (c) The Director or designee shall issue a decision granting or denying the relief sought,  
31 in whole or in part, or a notice of ongoing review, within sixty (60) days after receipt of the  
32 request under this section. If the relief sought is denied, the decision by the Department must:

- 33 (1) Contain a short and plain description of the basis for denial of the request for further  
34 administrative review; and  
35 (2) Specify the date by which the responsible entity shall comply with the requirements  
36 of this chapter that were in dispute.

37 (d) A decision issued under subsection (c) is the Department's final decision and is not  
38 subject to additional administrative dispute resolution.

39 (e) The Department shall specify in a notice of ongoing review the estimated date by  
40 which the Department expects to issue a decision granting or denying the relief sought. The  
41 Department shall take into account its available resources and the complexity of the issues  
42 raised in the appeal in estimating the date for issuance of the final decision.

1  
2 NOTE: Authority cited: Sections 25252, 25253, and 58012, Health and Safety Code.  
3 Reference: Sections 25252, 25253, and 25257.1, Health and Safety Code.

4  
5 **§ 69507.3. Formal Dispute Resolution Procedures.**

6 For all disputes regarding a decision made by the Department under sections 69506.5,  
7 69506.6, 69506.7, 69506.9, 69506.10, and 69506.11, the procedures specified in sections  
8 69507.4 through 69507.7 shall apply in lieu of the procedures set forth in sections 69507.1 and  
9 60507.2.

10  
11 NOTE: Authority cited: Sections 25253 and 58012, Health and Safety Code. Reference:  
12 Sections 25253 and 25257.1, Health and Safety Code.

13  
14 **§ 69507.4. Time Lines for Requests for Review.**

15 Within thirty (30) days of a responsible entity receiving a determination from the  
16 Department under section 69506.5, 69506.6, 69506.7, 69506.9, 69506.10, or 69506.11, the  
17 responsible entity may submit a Request for Review to the Department, requesting review of  
18 such determination. If a Request for Review is not filed within this time period, the  
19 Department's determination is final and is not eligible for any dispute resolution procedures  
20 under this article.

21  
22 NOTE: Authority cited: Sections 25253 and 58012, Health and Safety Code. Reference:  
23 Sections 25253 and 25257.1, Health and Safety Code.

24  
25 **§ 69507.5. Contents of Requests for Review.**

26 A Request for Review filed under section 69507.4 must include a statement of the reasons  
27 supporting the Request for Review, and, as applicable, a showing that the determination is  
28 based on:

- 29 (a) Erroneous facts, assumptions, approaches, or conclusions of law; and/or  
30 (b) A policy judgment that the Department should, in its discretion, consider.

31  
32 NOTE: Authority cited: Sections 25253 and 58012, Health and Safety Code. Reference:  
33 Sections 25253 and 25257.1, Health and Safety Code.

34  
35 **§ 69507.6. Department Procedures for Requests for Review.**

36 (a) Within sixty (60) days following the filing of a Request for Review under section  
37 69507.4, the Department shall issue an order either granting or denying the Request for  
38 Review, or a notice of ongoing review.

39 (b) An order denying review shall constitute the Department's final decision and shall  
40 not be subject to additional administrative dispute resolution. The decision shall be effective  
41 on the date of the order. An order denying review must:

1 (1) Specify the date by which the responsible entity shall comply with the requirements  
2 of this chapter that were the subject of the Request for Review; and

3 (2) Contain a short and plain description of the basis for the denial of further  
4 administrative review.

5 (c) An order granting review must specify a schedule for briefing of the issues by the  
6 responsible entity and the Department.

7 (d) The Department shall issue an order specifying its decision on the merits of the  
8 Request for Review, or a notice of ongoing review, within 180 days from the date it grants the  
9 Request for Review.

10 (1) If the final order upholds the Department's decision under this chapter, the order is  
11 the Department's final decision and is not eligible for additional administrative dispute  
12 resolution. An order upholding the Department's original decision must specify the date by  
13 which the responsible entity shall comply with the applicable requirements of this chapter.

14 (2) If the final order grants the relief sought by the responsible entity, in whole or in part,  
15 the order must remand the decision that is the subject of the Request for Review to the  
16 responsible program within the Department for re-evaluation by a specified date. The date for  
17 completion of the re-evaluation must be no more than ninety (90) days from the date of the  
18 order. The order may also provide guidance or criteria for the re-evaluation.

19 (e) The Department shall specify in a notice of ongoing review the estimated date by  
20 which the Department expects to issue an order under subsection (a) or (d), whichever is  
21 applicable. The Department shall take into account its available resources and the complexity  
22 of the issues raised in the Request for Review in estimating the date for issuance of the order.

23 (f) No Department staff that participated in the decision that is the subject of the  
24 Request for Review filed under section 69507.4 may participate in decision-making or review  
25 of decisions made under this section.

26 (g) No Department staff participating in decision-making or review of decisions made  
27 under this section may have communications about the Request for Review with the  
28 Department staff that participated in the decision that is the subject of the Request for Review  
29 filed under section 69507.4, unless the Department simultaneously communicates with the  
30 responsible entity or its representative regarding the issues under discussion with Department  
31 staff.

32  
33 NOTE: Authority cited: Sections 25253 and 58012, Health and Safety Code. Reference:  
34 Sections 25253 and 25257.1, Health and Safety Code.

## 35 36 **Article 8. Accreditation Bodies and Certified Assessors**

### 37 38 **§ 69508. Qualifications and Certification for Assessors.**

39 (a) An individual in responsible charge of conducting an AA and/or preparing a  
40 Preliminary or Final AA Report, or both, shall meet both of the following requirements:

41 (1) Possess a Bachelor's degree with a major in a scientific or engineering field from an  
42 accredited college or university.

1 (2)(A) Have the equivalent of two (2) years of professional experience performing AAs  
2 and/or working in a scientific or engineering field.

3 (B) Post-graduate work in the performance of AAs and/or in a scientific or engineering  
4 field, while attending an accredited college or university, may be substituted on a year-for-year  
5 basis for the experience required under subparagraph (A).

6 (b) On and after two (2) years after the effective date of these regulations, an individual  
7 in responsible charge of conducting an AA and/or preparing a Preliminary or Final AA Report,  
8 or both, shall successfully complete an assessor training program that is developed and  
9 delivered by an accreditation body, successfully complete an exit exam that meets the  
10 requirements of section 69508.2(c)(5), and meet all of the following requirements:

11 (1) Receive a "Certified Alternatives Assessor" certificate that meets the requirements of  
12 section 69508.2(c)(6), and is issued by the accreditation body whose training program the  
13 assessor successfully completed.

14 (2) Maintain certification by doing all of the following:

15 (A) Complete at least 20 hours of continuing education during each two-year  
16 accreditation period, as required and provided by, or verified by, the accreditation body from  
17 which the assessor will seek re-certification upon expiration of their current certification.  
18 Continuing education shall be education and/or training focused on one or more aspects of  
19 conducting AAs or closely related topics. At least two (2) hours of continuing education must  
20 be in professional ethics.

21 (B) Submit a certificate renewal application to an accreditation body at least thirty (30)  
22 days prior to the expiration of the assessor's current certification. If the assessor complies with  
23 the requirements of this subparagraph and subparagraph (A), the current certification will  
24 remain in effect until the accreditation body makes a determination on the application for  
25 renewal.

26 (C) Receive a renewed "Certified Alternatives Assessor" certificate that satisfies the  
27 requirements of section 69508.2(c)(6) and is issued by the accreditation body that provided or  
28 verified the assessor's continuing education under subparagraph (A).

29 (3) Possess, and produce when requested, a current "Certified Alternatives Assessor"  
30 certificate meeting the requirements of section 69508.2(c)(6).

31 (c) Successful completion of an approved challenge test developed by the accreditation  
32 body may be used in lieu of the classroom training requirements specified in 69508.2(c)(4) and  
33 written and practical tests specified in section 69508.2(c)(5) for applicants who meet the  
34 competency requirements and/or possess on-the-job training equivalent to that specified in  
35 section 69508.2(c)(4)(A) through (E).

36 (d) If the Department revokes, under subsection (g)(2), (g)(3), or (g)(4) of section  
37 69508.3, the designation of the accreditation body from which the assessor obtained  
38 accreditation, the assessor shall apply for re-certification from another accreditation body no  
39 later than sixty (60) days after information concerning the revocation is posted on the  
40 Department's website.

41 (e) An assessor's certificate shall be subject to reprimand, suspension, probation, or  
42 revocation by the accreditation body or the Department, or both, for failure to comply with the

1 requirements of this chapter, or if the Department or the accreditation body finds the assessor  
2 has engaged in activities governed by this chapter in a manner that is negligent, fraudulent, or  
3 otherwise unethical. The accreditation body shall provide to the Department the name of, and  
4 contact information for, any assessor whose certification is reprovved, suspended, placed on  
5 probation, or revoked by the accreditation body, and an explanation of the reasons for the  
6 decision.

7 (f) Final decisions and a summary regarding actions which result in reprimand,  
8 suspension, probation, or revocation shall be posted on the Department's web site for five (5)  
9 years after the effective date of the decision.

10 (g) A certified assessor may not be in responsible charge of conducting an AA and/or  
11 preparing a Preliminary or Final AA Report, or both, if the certified assessor has an ownership  
12 interest in the responsible entity whose product is the subject of the AA. For purposes of this  
13 subsection, an ownership interest exists if the certified assessor, or his/her spouse, child, or  
14 parent holds a position as an officer or director of the responsible entity or has an equity stake  
15 in the responsible entity in the amount of ten thousand dollars (\$10,000) or more.

16  
17 NOTE: Authority cited: Sections 25253 and 58012, Health and Safety Code. Reference:  
18 Section 25253, Health and Safety Code.

19  
20 **§ 69508.1. Qualifications for Accreditation Bodies.**

21 (a) An entity wishing to be designated, or to renew designation, by the Department as  
22 an accreditation body to certify assessors shall have on staff one or more individuals that, in  
23 combination, possess all of the following:

24 (1) A post-graduate degree in a scientific or engineering field from an accredited college  
25 or university.

26 (2) The equivalent of four (4) years of professional experience performing AAs and/or  
27 working in a scientific or engineering field. Post-graduate work in the performance of AAs  
28 and/or in a scientific or engineering field, while attending an accredited college or university,  
29 may be substituted on a year-for-year basis for the required experience.

30 (3) The ability to teach, and experience teaching, the principles and practices of  
31 performing AAs as specified in article 5.

32 (4) The ability to teach, and experience teaching, the application of life cycle analysis  
33 tools and methodologies relevant to products.

34 (5) The ability to teach, and experience teaching, or have access to subject matter  
35 experts with the ability to teach, and experience teaching, in all of the following subject areas:

36 (A) Environmental fate and transport, which shall include all of the following:

37 1. Fundamental processes in natural and engineered systems, including inter-media  
38 transport of contaminants between environmental compartments, and chemical and  
39 biochemical transformations within these compartments;

40 2. Principles of environmental reactions with emphasis on aquatic chemistry, reaction  
41 and phase equilibria, acid-base and carbonate systems, oxidation-reduction, colloids, organic  
42 contaminant classes, sources and fates, and groundwater chemistry; and

- 1        3.        Topics concerning the environment, including ecology, population dynamics,  
2 pollution micro-biology, aquatic biology, bio-concentration, limnology, stream sanitation,  
3 nutrient cycles, and toxicology atmospheric chemistry.
- 4        (B)        Principles of green chemistry, which shall include both of the following:
- 5        1.        Environmental management of engineering projects from the research through the  
6 development, operation, maintenance, and ultimate disposal phases; and
- 7        2.        Impacts of exploitation of raw materials and energy resources, transportation,  
8 pollution from use and ultimate disposal of products, and economics of environmental  
9 resources.
- 10        (C)        Project life cycle management, which shall include both of the following:
- 11        1.        Environmental management of engineering projects from the research through the  
12 development, operation, maintenance and ultimate disposal phases; and
- 13        2.        Impacts of exploitation of raw materials and energy resources, and transportation;  
14 pollution from use and ultimate disposal of products; economics of environmental resources.
- 15        (D)        Public health, which shall include all of the following:
- 16        1.        Impacts to sensitive populations, including the study of risk and factors that influence  
17 the distribution of disease in subpopulations;
- 18        2.        Examination of the basic principles of epidemiology, their application to specific  
19 public health situations, and criteria for critically evaluating epidemiology studies; and
- 20        3.        Methods of evaluating the causative factors of disease and the assessment of  
21 epidemiological study designs and research activities.
- 22        (E)        Professional ethics, which shall include all of the following:
- 23        1.        Analysis of ethical principles and dilemmas that may arise during the conduct and  
24 preparation of the AA and AA Reports;
- 25        2.        Examination of the services provided and approaches to providing impartial, fair, and  
26 equitable services dedicated to the protection of public health and the environmental;
- 27        3.        Fundamental standards that protect the safety, health, and welfare of the public;
- 28        4.        Standards and practices to ensure that services are performed only in areas of  
29 competency, statements are made only in an objective and truthful manner, the assessor acts  
30 for each employer or client as a faithful agent or trustee, and deceptive acts are avoided; and
- 31        5.        Rules of practice and professional obligations that support the above.
- 32        (F)        Toxicology and comparative risk assessment, which shall include all of the following:
- 33        1.        The toxic effects that hazardous chemicals have on biological systems, including  
34 dose-response curves, mechanisms of toxicity, carcinogenesis, and reproductive hazards;
- 35        2.        The risks associated with exposure to hazardous chemicals and instruction on how  
36 risk assessment fits into the risk management processes; and
- 37        3.        Examination of common toxicological effects of chemicals on biological systems  
38 through inclusion of relevant case studies.
- 39        (6)        The ability to teach, and experience teaching, or have access to subject matter  
40 experts with the ability to teach, and experience teaching, in two or more of the following  
41 subject areas:

1 (A) Economics and financial planning for innovation, which shall include both of the  
2 following:

- 3 1. An introduction to the core principles of economics, finance, and accounting to  
4 understand the steps necessary to bring green chemistry innovations to market; and
- 5 2. Exploration of other relevant topics in business administration and sustainability,  
6 including business models, ecological economics, entrepreneurship and service design.

7 (B) Environmental law, which shall include all of the following:

- 8 1. Federal statutory and regulatory requirements regarding public health and  
9 environmental protection;
- 10 2. State statutory and regulatory requirements regarding public health and  
11 environmental protection; and
- 12 3. Principles of public policy.

13 (C) Research in emerging technologies, which shall include both of the following:

- 14 1. Advances made in materials science; and
- 15 2. Case studies in lessons learned which must include the principles of design,  
16 manufacture, and use of classes of materials such as metals, ceramics, semiconductors,  
17 polymers, and biomaterials that addresses fundamental energy, environmental, health,  
18 economic, and manufacturing issues relating to those materials.

19 (D) Sustainable practices, which shall include all of the following:

- 20 1. The examination and fundamental qualities, attributes and competencies to manage  
21 resources in a responsible manner, with minimal impact on natural resources and climate;
- 22 2. Identification of scientific methods for measuring and auditing the effectiveness of  
23 eco-friendly practices that make improvements on the amount of resources expended on  
24 energy, transportation, water use, recycling, and natural resources through the life cycle of  
25 products, technologies, and processes; and
- 26 3. Identification skills and tools to identify emerging issues and opportunities most  
27 pertinent to specific industries, establishing appropriate goals, developing and integrating new  
28 strategies, and measuring performance.

29 (b) Except as provided in subsection (c), any entity that seeks designation as an  
30 accreditation body must be independent of, and may not hold any stock or ownership interest  
31 in, any consumer product manufacturing, importation, distribution, or retail business.

32 (c) Subsection (b) does not apply to colleges, universities, or their subdivisions, that  
33 seek designation as an accreditation body.

34  
35 NOTE: Authority cited: Sections 25253 and 58012, Health and Safety Code. Reference:  
36 Sections 25253 and 25257, Health and Safety Code.

### 37 38 **§ 69508.2. Accreditation Body Designation Requirements.**

39 (a) An entity meeting the qualification requirements specified in section 69508.1 may  
40 apply to be designated by the Department as an accreditation body to certify assessors.

41 (b) The application to be designated as an accreditation body, or to renew designation  
42 as an accreditation body, must include all of the following:

- 1 (1) The name of, and contact information for, the person(s) submitting the application;
- 2 (2) A summary of the qualifications of the individuals, meeting the requirements
- 3 specified in section 69508.1, including education, experience, and areas of subject matter
- 4 competency, that are available within, or to, the entity for training and certifying individuals to
- 5 perform AAs;
- 6 (3) Documentation that the entity meets all of the qualification requirements specified in
- 7 section 69508.1; and
- 8 (4)(A) A detailed description of the accreditation program demonstrating that the program
- 9 meets the requirements specified in subsection (c);
- 10 (B) The entity's training program for certification of assessors, including for each course
- 11 the title, content description, hours, and exam plan;
- 12 (C) Demonstrated qualifications and areas of expertise of the individuals responsible for
- 13 developing the entity's training curriculum, as evidenced by education, experience,
- 14 professional licenses, registrations, or other relevant credentials; and
- 15 (D) The entity's continuing education curriculum for re-accreditation of assessors,
- 16 including for each course the title, content description, hours, and exam plan.
- 17 (c) Each accreditation body shall include in its program, at a minimum, all of the
- 18 following:
- 19 (1) Admission Procedures. A summary of application requirements and admission
- 20 procedures for certification and certification renewal must be included. Required information
- 21 includes all of the following:
- 22 (A) The applicant's name and contact information;
- 23 (B) The applicant's educational experience, which must meet the requirements of
- 24 section 69508(a)(1) and must be substantiated by submittal of transcripts or other equivalent
- 25 records;
- 26 (C) The applicant's employment and other experience history, which must meet the
- 27 requirements of section 69508(a)(2) and for which references must be provided;
- 28 (D) The professional licenses, registrations, or other relevant credentials that the
- 29 applicant possesses;
- 30 (E) Documentation of completion of continuing education required under section
- 31 69508(b)(2), if the application is for certification renewal; and
- 32 (F) A signed and dated certification statement that reads: "I certify under penalty of
- 33 perjury that the information I have entered on this application is true and complete to the best
- 34 of my knowledge. I further understand that any false or incomplete statements may result in
- 35 my disqualification as a certified alternatives assessor. I authorize the employers and
- 36 educational institutions identified on this application to release any information they may have
- 37 concerning my employment or education to the accreditation body with which this application is
- 38 filed and to the State of California."
- 39 (2) Verification Procedures. Written procedures must be included for verifying an
- 40 applicant's qualifying education and experience, including verification of fulfillment of
- 41 continuing education requirements.

1 (3) Denial Criteria. A summary of the criteria and procedures for denying an applicant  
2 for certification or certification renewal must be included. Denial decisions must be provided to  
3 the applicant in writing and must state the grounds for denial and, if applicable, specify the  
4 conditions the applicant must fulfill in to order to be certified or re-certified as an assessor.

5 (4) Training of Assessors. The training program must include classroom and on-the-job  
6 assistance and/or training of applicants. The training must incorporate classroom and/or on-  
7 the-job training in analysis of information and practical application of principles, at a minimum,  
8 in all of the following:

9 (A) The requirements of this chapter, with an emphasis on the requirements of articles  
10 5, 6, and 10;

11 (B) Training and case studies on principles and practices of performing AAs as specified  
12 in article 5 using life cycle analysis tools and methodologies and life cycle thinking, meaning  
13 the examination and consideration of public health and environmental impacts over a product's  
14 entire life cycle;

15 (C) Training and case studies on identification of alternatives for consideration in AAs;

16 (D) Training and case studies on identification of the life cycle segments and exposure  
17 pathways for chemicals and products; and

18 (E) Training needed for the attainment of expertise in specific fields necessary to the  
19 performance of AAs.

20 (5) Evaluation and Examination of Assessors. The program must include both of the  
21 following:

22 (A) A Department-approved written and practical test or evaluation developed by the  
23 accreditation body that demonstrates the applicant's competence in the training requirements  
24 specified in paragraphs (4)(A) through (4)(E); and

25 (B) A Department-approved challenge test developed by the accreditation body, that  
26 may be used in lieu of the classroom training requirements specified in paragraph (4) and the  
27 written and practical tests specified in subparagraph (A), for applicants that meet the  
28 competency requirements and/or possess on-the-job experience that is equivalent to the  
29 requirements specified in paragraphs (4)(A) through (4)(E).

30 (6)(A) Certificate Issuance. A certificate for initial certification and certification renewal that  
31 is entitled "Certified Alternatives Assessor" and must, at a minimum, include all of the following:

32 1. Assessor's name;

33 2. Certificate number;

34 3. Certificate issuance date and expiration date;

35 4. Name of, and contact information for, the accreditation body issuing the certificate;

36 5. An indication whether the certificate is for initial certification or a renewal;

37 6. The product type(s) and/or industry sector(s) for which the assessor is certified;

38 7. A statement that the assessor meets the requirements of subsections (a) and (b) of  
39 section 69508; and

40 8. The signature of the owner or an officer of the accreditation body issuing the  
41 certification.

1 (B) The accreditation body's program must include requirements and a process for  
2 certification renewal every two (2) years.

3 (7) Assessor Agreement and Audit Program. The program must require that certified  
4 assessors enter into an agreement with the accreditation body under which the assessors  
5 agree to all of the following:

6 (A) Provide alternatives analysis services only in the areas of expertise in which the  
7 individual has demonstrated competence;

8 (B) Provide true and accurate analyses; and

9 (C) Random auditing by the accreditation body or its consultants, subject to non-  
10 disclosure agreements as needed, to ensure the quality of work and proper application of tools  
11 by the assessor.

12 (8) Record Maintenance Program.

13 (A) The accreditation body shall maintain a database of the names of individuals whose  
14 applications were accepted or denied, names of and contact information for individuals  
15 certified, their certificate numbers, their certificate issuance and expiration dates, and the  
16 area(s) of expertise in which each assessor is certified. The database must also include  
17 copies of applications, verification information, audit records, and violations, if any. All records  
18 shall be maintained for a minimum of five (5) years. The accreditation body shall provide the  
19 Department with real-time electronic access to the database.

20 (B) Upon the request of the Department, but not more frequently than annually, an  
21 accreditation body shall submit to the Department sufficient information to facilitate audits by  
22 the Department under article 9.

23  
24 NOTE: Authority cited: Sections 25253 and 58012, Health and Safety Code. Reference:  
25 Section 25253, Health and Safety Code.

26  
27 **§ 69508.3. Accreditation Body Designation Process.**

28 (a) The Department shall review an application submitted under section 69508.2, and  
29 approve or deny the request for designation as an accreditation body, within sixty (60) days of  
30 receiving the application. The Department shall notify the person submitting the application of  
31 its determination. A notice of denial shall state the grounds for denial and, if applicable,  
32 specify the conditions the applicant must fulfill in to order to be designated, or re-designated,  
33 as an accreditation body.

34 (b) If the information submitted under section 69508.2 changes, the person that  
35 submitted the application shall provide updated written information to the Department within  
36 thirty (30) days of the change.

37 (c) A designation as an accreditation body expires after a period of five (5) years,  
38 except that it may be renewed upon application by the accreditation body, under section  
39 69508.2, not later than ninety (90) days before expiration of the existing designation. Timely  
40 applications for renewal of designation, meeting the requirements of section 69508.2, shall  
41 extend the expiring designation until the Department makes a determination on the renewal  
42 application.

1 (d) If the Department determines an accreditation body is negligently or willfully in  
2 violation of this chapter, the Department shall revoke the entity's designation as an  
3 accreditation body for a period of at least ten (10) years. After this period, the accreditation  
4 body may reapply to be designated as an accreditation body.

5 (e) An accreditation body may not claim trade secret protection for its general admission  
6 process, curriculum, and educational approach.

7 (f) The Department may periodically review the performance of an accreditation body to  
8 determine whether the accreditation body is in compliance with the requirements of this  
9 chapter. This review may include records review and/or interviews of assessors participating  
10 in the training and certification program.

11 (g) The Department shall revoke its designation of an accreditation body if one or more  
12 of the following occurs:

13 (1) The designation period has lapsed, and the accreditation body has not submitted a  
14 timely renewal application that meets the requirements of section 69508.2;

15 (2) A substantial number of individuals certified by the accreditation body as assessors  
16 are found by the Department to be in violation of this chapter;

17 (3) The Department finds that the accreditation body has significantly deviated from the  
18 documentation submitted to the Department under section 69508.2, or is out of compliance  
19 with the applicable requirements of this article; and/or

20 (4) The Department finds the accreditation body to have carried out its activities  
21 governed by this chapter in a manner that is negligent, fraudulent, or is otherwise unethical.

22  
23 NOTE: Authority cited: Sections 25253 and 58012, Health and Safety Code. Reference:  
24 Section 25253, Health and Safety Code.

25  
26 **§ 69508.4. Filing a Complaint.**

27 (a) A person may file a complaint alleging a violation of this chapter by an  
28 accreditation body or a certified assessor. The complaint must include both of the following:

29 (1) The name of, and contact information for, both of the following:

30 (A) The accreditation body or certified assessor that is the subject of the complaint; and

31 (B) The name of the complainant, unless filing anonymously.

32 (2) A description of the complaint, including the particular requirements that are alleged  
33 to have been violated and the facts which the complainant relies upon to support the alleged  
34 violation.

35 (b) Within thirty (30) days of receiving a complaint, the Department shall review the  
36 complaint and determine if the complaint includes the items specified in subsection (a). If the  
37 Department determines that a complaint is complete, the Department shall notify the  
38 complainant, if not submitted anonymously, that the Department will conduct further review to  
39 determine whether a violation has occurred. If the Department determines that the complaint  
40 is incomplete, it shall notify the complainant, unless submitted anonymously, and specify the  
41 basis for the determination. Anonymous complaints lacking sufficient information will be  
42 dismissed.

1 (c) If the complaint substantially complies with the requirements of this section, the  
2 Department shall serve a copy to each subject of the complaint, together with an order  
3 requiring that the complaint be answered by the subject within thirty (30) days after the date of  
4 service.

5 (d) The Department shall review the information and documentation in the response  
6 from the subject of the complaint and may refer items to external subject matter experts for  
7 review and recommendations.

8 (e) If the Department determines there is insufficient evidence to determine whether or  
9 not a violation has occurred, the Department shall close the complaint.

10 (f) If the Department determines that a violation has occurred, the Department shall:

11 (1) Warn the subject of the complaint by issuing a citation, and obtain compliance;

12 (2) Pursue the violations under the Administrative Procedure Act; and/or

13 (3) Refer the matter to the Attorney General or appropriate district attorney.

14  
15 NOTE: Authority cited: Sections 25253 and 58012, Health and Safety Code. Reference:  
16 Section 25253, Health and Safety Code.

## 17 18 **Article 9. Audits**

### 19 20 **§ 69509. Audit of Materials Submitted to the Department and Regulatory Responses.**

21 (a) The Department may audit any information compiled, and/or submitted to the  
22 Department, under this chapter. Information the Department may audit includes, but is not  
23 limited to, AAs, AA Reports, information related to notifications submitted under this chapter,  
24 and implementation of regulatory responses.

25 (b) The scope of any audit may include, but is not limited to, an examination of one or  
26 more of the following:

27 (1) Compliance with article 5 requirements;

28 (2) Information quality and adequacy of analysis;

29 (3) Implementation of the selected alternative, if applicable; and

30 (4) Compliance with the regulatory response(s) imposed under article 6, if any.

31 (c) Upon completion of an audit, the Department shall notify the responsible entity(ies)  
32 of the audit finding and the process to dispute audit findings.

33  
34 NOTE: Authority cited: Sections 25253, and 58012, Health and Safety Code. Reference:  
35 Article 8 of Division 4.5 of Chapter 20 and Section 25253, Health and Safety Code.

## 36 37 **Article 10. Trade Secret Protection**

### 38 39 **§ 69510. Assertion of a Claim of Trade Secret Protection.**

40 (a) A person who asserts a claim of trade secret protection with respect to documents or  
41 information submitted to the Department under this chapter will receive a written request from  
42 the Department to furnish the Department with all of the following supporting information:

- 1 (1) The identity of the person asserting the claim;
- 2 (2) A brief description of the nature of the information for which trade secret protection is  
3 being claimed;
- 4 (3) The extent to which the information is known by employees or others involved with  
5 the facility or business of the person, and whether or not those individuals are bound by non-  
6 disclosure agreements;
- 7 (4) The extent to which the information is known outside of the facility or business of the  
8 person, and whether or not individuals with such knowledge are bound by non-disclosure  
9 agreements;
- 10 (5) The measures taken to restrict access to and safeguard the information, and  
11 whether or not the person plans to continue utilizing such measures;
- 12 (6) The estimated value of the information to the person and the person's competitors;
- 13 (7) The estimated amount of effort and/or money expended by the person in developing  
14 the information;
- 15 (8) The estimated ease or difficulty with which the information could be properly  
16 acquired or duplicated by others, including for any chemical claimed as trade secret, an  
17 explanation of why the chemical identity is not readily discoverable through reverse  
18 engineering;
- 19 (9) Copies of, or references to, any pertinent trade secret or other confidentiality  
20 determinations previously made by the Department or other public agencies;
- 21 (10) A description of the nature and extent of harm that would be caused if the  
22 information were made public, including an explanation of the causal relationship between  
23 disclosure and the harmful effects claimed;
- 24 (11) The signature of the person's general counsel or other executive with knowledge of  
25 the preparation of the substantiating information, certifying under penalty of perjury and subject  
26 to the provisions of section 69501.3(b), and based upon the knowledge and belief of the  
27 signatory, that:
  - 28 (A) The substantiating information is true, accurate, and complete;
  - 29 (B) The information for which trade secret protection is claimed is not otherwise publicly  
30 available; and
  - 31 (C) There is a reasonable basis to assert trade secret protection for the information so  
32 claimed; and
- 33 (12) Contact information for the individual to be contacted if part of the claimed  
34 information is requested to be disclosed under the California Public Records Act.
  - 35 (b) The substantiating information required under subsections (a)(1) through (a)(10)  
36 shall be provided for each individual trade secret claim, although such information may be  
37 incorporated by reference to apply to multiple claims, as appropriate. The requirements of  
38 subsections (a)(11) and (a)(12) may be met once for all claims submitted at one time.
  - 39 (c) A person who asserts a claim of trade secret protection shall also, at the time of  
40 submission, provide the Department with both of the following:
    - 41 (1) A complete copy of the documentation being submitted, which shall include the  
42 information for which trade secret protection is claimed; and

1 (2) A redacted copy of the documentation being submitted, which shall exclude the  
2 information for which trade secret protection is claimed. The Department may make the  
3 redacted copy of the documentation available to the public at its discretion.

4 (d) A person who asserts a claim of trade secret protection shall make such assertion at  
5 the time of submission by marking the words "Trade Secret" conspicuously on each page  
6 containing the information for which trade secret protection is claimed. If no claim of trade  
7 secret protection is made at the time of submission, the Department may make the submitted  
8 information available in full to the public without further notice.

9 (e) If the documentation supporting a claim of trade secret protection contains  
10 information that is itself subject to a claim of trade secret protection, such supporting  
11 documentation shall be separately supplied in both complete and redacted form as required by  
12 subsection (c), and marked as required by subsection (d), but shall not itself require further  
13 supporting documentation. Such documentation shall be separate from documentation used  
14 to comply with other provisions of this chapter.

15 (f) Except as specified in subsection (g), trade secret protection may not be claimed for  
16 any health, safety, or environmental information contained in any hazard trait submission or  
17 any chemical identity information associated with a hazard trait submission.

18 (g) Trade secret protection may be claimed for the chemical identity of a chemical that is  
19 the subject of a hazard trait submission only if the subject of claim is a proposed alternative to  
20 a Chemical of Concern in a Priority Product, and the claimant does all of the following:

21 (1) Demonstrates to the Department's satisfaction that the chemical that is the subject  
22 of the claim is a new chemical or a new use of an existing chemical;

23 (2) Provides the Department with sufficient health, safety, and environmental data on  
24 the chemical subject to the claim to demonstrate, to the Department's satisfaction, that it is  
25 substantially safer than the existing Chemical of Concern in the Priority Product; and

26 (3) Complies with the substantiation requirements of subsections (a)(1) through (a)(12)  
27 of this section.

28 (h) Any person making a claim of trade secret protection for the identity of a chemical  
29 under subsection (g) shall provide the Department with a non-confidential description of the  
30 nature of the chemical that is as specific as possible, consistent with the claim of trade secret  
31 protection.

32  
33 NOTE: Authority cited: Sections 25252, 25253, and 58012, Health and Safety Code.  
34 Reference: Sections 25252, 25253, and 25257, Health and Safety Code.

35  
36 **§ 69510.1. Department Review of Claims of Trade Secret Protection.**

37 (a) Upon receipt of information submitted under this chapter that contains information  
38 identified as being subject to trade secret protection, or at any time thereafter, the Department  
39 may review the trade secret claim and supporting information for compliance with the  
40 requirements of this article.

41 (b)(1) If the Department determines that information provided in support of a request for  
42 trade secret protection is incomplete or insufficiently responsive to permit a trade secret

1 determination, the Department shall:

2 (A) Notify the submitter of the Department's finding of insufficiency;

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

4 (C) Provide an explanation as to why the Department has determined the information to  
5 be insufficient; and

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

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

13 (c) If the Department determines that information provided in support of a request for  
14 trade secret protection does not meet the substantive criteria for trade secret designation, the  
15 Department shall notify the submitter by certified mail of its determination and that the  
16 information claimed to be trade secret will be considered a public record subject to disclosure  
17 by the Department thirty (30) days after such notice is mailed. During this 30-day period, the  
18 submitter may seek judicial review by filing an action for a preliminary injunction and/or  
19 declaratory relief.

20 (d) If a person asserting a claim of trade secret protection initiates an action under  
21 subsection (b) or (c), the Department may not publicly release or disclose the information that  
22 is the subject of the claim of trade secret protection until resolution of any court challenge,  
23 including appeals, if any.

24

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

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

27

## 28 **Article 11. Severability**

29

### 30 **§ 69511. Severability.**

31 If any provision(s) of this chapter, or the application thereof to any person or circumstances,  
32 is held invalid, such invalidity shall not affect other provisions or applications of this chapter  
33 that can be given effect without the invalid provision or application, and to that end the  
34 provisions of this chapter are severable.

35

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

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

38

## 39 **Article 12. [Reserved]**

40

### 41 **§§ 69512 -- 69599. [Reserved]**