

**ATTACHMENT****TEXT OF PROPOSED REGULATIONS – POST-HEARING CHANGES  
January 2013**

Changes in this version reflect post-hearing changes to the text as originally proposed. All of the text is new language to be added to the California Code of Regulations.

The originally proposed text is shown with no underlines. Changes to the originally proposed text are indicated as follows:

**Underline:** Underlined text reflects new text resulting from post-hearing changes.

**Strikeout:** ~~Strikeout~~ text reflects deleted text resulting from post-hearing changes.

For ease of reading and referencing the proposed regulations, line numbers and table of content page numbers are added, but are not part of the actual regulatory text.

NOTE: An unofficial “clean” version of the revised proposed regulations (which does not indicate which text has been added / deleted) is available on the Department of Toxic Substances Control’s website as a courtesy copy only.

**DIVISION 4.5, TITLE 22, CALIFORNIA CODE OF REGULATIONS  
CHAPTER 55. SAFER CONSUMER PRODUCTS**

1  
2  
3  
4 **Amend** the Table of Contents by adding chapter 55, articles 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, ~~11~~, and  
5 ~~12~~11, and sections 69501, 69501.1, 69501.2, 69501.3, 69501.4, 69501.5, 69502, 69502.1,  
6 69502.2, 69502.3, 69503, 69503.1, 69503.2, 69503.3, 69503.4, 69503.5, 69503.6, 69503.7,  
7 69504, 69504.1, 69505, 69505.1, 69505.2, 69505.3, 69505.4, 69505.5, 69505.6, 69505.7,  
8 69505.8, 69506, 69506.1, 69506.2, 69506.3, 69506.4, 69506.5, 69506.6, 69506.7, 69506.8,  
9 69506.9, 69506.10, ~~69506.11~~, ~~69506.12~~, 69507, 69507.1, 69507.2, 69507.3, 69507.4,  
10 69507.5, 69507.6, 69508, ~~69508.1~~, ~~69508.2~~, ~~69508.3~~, ~~69508.4~~, 69509, 69509.1, 69510,  
11 ~~69510.1~~, and 69511, ~~and 69512~~ through 69599 to division 4.5 of title 22 of the California Code  
12 of Regulations, ~~title 22~~, to read:

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1 ~~Add chapter 55 to division 4.5 of title 22 of the California Code of Regulations, title 22, division~~  
2 ~~4.5, chapter 55 to to read:~~

## 3 4 **Chapter 55. Safer Consumer Products**

### 5 6 **Article 1. General**

#### 7 8 **§ 69501. Purpose and Applicability.**

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

#### 17 ~~(b)~~ (b) Applicability and Non-Duplication.

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

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

25 ~~(3)~~ (A) This chapter does not apply to ~~any~~ a consumer product ~~manufactured that the~~  
26 ~~Department determines is regulated by one or stored in, more federal and/or transported~~  
27 ~~through, California solely~~ State regulatory program(s), and/or applicable treaties or international  
28 agreements with the force of domestic law, that, in combination:

29 1. Address the same potential adverse impacts, potential exposure pathways, and  
30 potential adverse waste and end-of-life effects that could otherwise be the basis for use  
31 outside of the product being listed as a Priority Product; and

32 2. Provide a level of public health and environmental protection that is equivalent to or  
33 greater than the protection that would potentially be provided if the product were listed as a  
34 Priority Product.

35 (B) The Department may re-evaluate a determination previously made pursuant to this  
36 paragraph and rescind the determination if the Department finds that the facts and/or  
37 assumptions upon which the determination was based were not, or are no longer, valid.

38 (c) Harmonization. Nothing in these regulations authorizes the Department to  
39 supersede the requirements of another California State or federal regulatory program.

40  
41 NOTE: Authority cited: Sections 25252, 25253, and 58012, Health and Safety Code.  
42 Reference: Sections 25251, 25252, 25253, and 25257.1, Health and Safety Code.

1  
2 **§ 69501.1. Definitions.**

3 (a) Terminology. When used in this chapter, the following terms, unless specified  
4 otherwise, have the meanings specified in this section:

5  
6 (1) “AA Reports” means ~~the Preliminary and/or Final AA Reports, collectively draft and/or~~  
7 final Abridged AA Reports, and/or AA Reports submitted for previously completed AAs,  
8 whichever is applicable.

9  
10 (2) ~~“Accreditation body” means an entity designated by the Department, under article 8,~~  
11 ~~to administer a program designed to train, evaluate, assist, and certify assessors.~~

12  
13 (3) ~~“Adverse air quality impacts” means indoor or outdoor air emissions of any of the air~~  
14 ~~contaminants listed below that have the ability potential to result in adverse public health,~~  
15 ~~ecological, soil quality, or water quality impacts:~~

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

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

19 1. Carbon dioxide;

20 2. Hydrofluorocarbons;

21 3. Methane;

22 4. Nitrogen trifluoride;

23 5. Nitrous oxide;

24 6. Perfluorocarbons;

25 7. Sulfur hexafluoride; or

26 8. Gases that exhibit the global warming potential hazard trait, as specified in section  
27 69405.4;

28 (C) Nitrogen oxides;

29 (D) Particulate matter that exhibits the particle size or fiber dimension hazard trait, as  
30 specified in section 69405.7;

31 (E) Chemical substances that exhibit the stratospheric ozone depletion potential hazard  
32 trait, as specified in section 69405.8;

33 (F) Sulfur oxides; or

34 (G) Tropospheric ozone-forming compounds, including compounds that exhibit the  
35 ambient ozone formation hazard trait, as specified in section 69405.1.

36  
37 (43) “Adverse ecological impacts” means any of the following direct or indirect effects on  
38 living organisms and/or their environments:

39 (A) Adverse ~~impacts~~effects to aquatic, avian, or terrestrial animal or plant organisms or  
40 microbes, including:

41 1. Acute or chronic toxicity;

- 1        2.        Changes in population size, reductions in biodiversity, or changes in ecological  
2 communities; and
- 3        3.        The ability of an endangered or threatened species to survive or reproduce;
- 4        (B)        Adverse ~~impacts~~effects on aquatic and terrestrial ecosystems including:
- 5        1.        Deterioration or loss of environmentally sensitive habitats;
- 6        2.        Impacts that contribute to or cause vegetation contamination or damage; and
- 7        3.        Adverse ~~impacts~~effects on environments that have been designated as impaired by  
8 a California State or federal regulatory agency;
- 9        (C)        Biological or chemical contamination of soils; or
- 10       (D)        Any other adverse effect, as defined in section 69401.2(a), for environmental hazard  
11 traits and endpoints specified in article 4 of chapter 54.

12

13       (54)       “Adverse environmental impacts” means any of the following:

- 14       (A)        Adverse air quality impacts;
- 15       (B)        Adverse ecological impacts;
- 16       (C)        Adverse soil quality impacts;
- 17       (D)        Adverse water quality impacts; or
- 18       (E)        Exceedance of an enforceable California or federal regulatory standard relating to  
19 the protection of the environment.

20

21       (5)        “Adverse impacts” means adverse public health impacts and/or adverse  
22 environmental impacts.

23

24       (6)        “Adverse public health impacts” means any of the toxicological effects on public  
25 health specified in ~~articles~~article 2 or article 3 of chapter 54, or exceedance of an enforceable  
26 California or federal regulatory standard relating to the protection of public health. Public  
27 health includes occupational health.

28

29       (7)        ~~“Adverse public health and/or environmental impacts” or “adverse impacts” means~~  
30 ~~adverse public health impacts and/or adverse environmental impacts, collectively.~~

31

32       (8) (7)       “Adverse soil quality impacts” means any of the following effects on soil function or  
33 properties:

- 34       (A)        Compaction or other structural changes;
- 35       (B)        Erosion;
- 36       (C)        Loss of organic matter; or
- 37       (D)        Soil sealing, meaning ~~the covering of the~~ surface soil with a layer of impervious  
38 material or changing the nature of the soil so that it behaves as an impermeable medium.

39

40       (98)       “Adverse waste and end-of-life ~~impacts~~effects” means the waste materials and  
41 byproducts generated during the life cycle of ~~the Priority Product and/or each alternative being~~  
42 ~~considered, including degradates and reaction products~~a product, and the associated adverse

1 ~~public health or environmental impacts~~effects due to anyone or more of, or a combination of,  
2 the following:

3 (A) The volume or mass generated;

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

5 (C) ~~Impacts~~Effects on solid waste and wastewater disposal and treatment, including  
6 operation of solid waste and wastewater handling or treatment facilities, and the ability to reuse  
7 or recycle materials resulting from the treatment of solid waste and/or wastewater;

8 (D) Discharge(s) or disposal(s) to storm drains or sewers, ~~contributing to adverse~~  
9 ~~impacts on~~ that adversely affects operation of wastewater or storm water treatment facilities; or

10 (E) Release(s) into the environment, as a result of solid waste handling, treatment, or  
11 disposal activities, or the discharge or disposal to storm drains or sewers, of ~~either or both of~~  
12 the following:

13 1. ~~The Chemical(s) of Concern contained in the Priority Product or alternatives; and/or~~

14 2. ~~Any other chemical contained in the alternatives that differs from the chemicals~~  
15 ~~contained in the Priority Product~~product.

16  
17 (409) “Adverse water quality impacts” means any of the following adverse effects on the  
18 beneficial uses of the waters of the State, which include groundwater, fresh water, brackish  
19 water, marsh lands, wetlands, or coastal bodies or systems, as specified in Water Code  
20 section 13050(f) or adopted in a Water Quality Control Plan under article 3 of chapter 3 and/or  
21 article 3 of chapter 4 of division 7 of the Water Code, ~~of the waters of the State, which include~~  
22 ~~groundwater, fresh water, brackish water, marsh lands, wetlands, or coastal bodies or~~  
23 ~~systems~~:

24 (A) Increase in biological oxygen demand;

25 (B) Increase in chemical oxygen demand;

26 (C) Increase in temperature;

27 (D) Increase in total dissolved solids; or

28 (E) Introduction of, or increase in, any of the following:

29 1. Priority ~~toxic~~ pollutants identified for California under section 303(c) of the federal  
30 Clean Water Act;

31 2. Pollutants listed by California or the United States Environmental Protection Agency  
32 for one or more water bodies in California under section 303(d) of the federal Clean Water Act;

33 3. Chemicals for which primary Maximum Contaminant Levels (MCLs) have been  
34 established and adopted under ~~Health and Safety Code~~ section ~~116365(a), 64431~~ or ~~by section~~  
35 ~~64444 of chapter 15 of title 22 of the Environmental Protection Agency under the federal Safe~~  
36 ~~Drinking Water Act~~California Code of Regulations;

37 4. Chemicals for which Notification Levels (NLs) have been specified under Health and  
38 Safety Code section 116455; or

39 5. Chemicals for which public health goals for drinking water have been published  
40 under the California Safe Drinking Water Act (commencing with Health and Safety Code  
41 section 116270).

1 (4110) "Alternative" means any of the following:

2 (A) Removal of Chemical(s) of Concern ~~in from~~ a Priority Product, with or without adding  
3 ~~a substitute chemical or increasing the concentration~~ use of a chemical already contained in the  
4 product ~~one or more replacement chemicals~~;

5 (B) Reformulation or redesign of a Priority Product and/or manufacturing process to  
6 ~~reduce or eliminate~~ or reduce the concentration of Chemical(s) of Concern in the Priority  
7 Product;

8 (C) Redesign of a Priority Product and/or manufacturing process, ~~using different~~  
9 ~~materials~~ to reduce or restrict potential exposures to Chemical(s) of Concern in the Priority  
10 Product; or

11 (D) Any other change to a Priority Product or a manufacturing process that reduces the  
12 potential adverse public health and/or environmental impacts and/or potential exposures  
13 associated with the Chemical(s) of Concern in the Priority Product, and/or the potential  
14 adverse waste and end-of-life effects associated with the Priority Product.

15  
16 (4211) "Alternatives Analysis" or "AA" means an evaluation and comparison of a Priority  
17 Product and one or more alternatives to the product, under article 5.

18  
19 (12) "Alternatives Analysis Threshold" means the Practical Quantitation Limit for a  
20 Chemical of Concern that is present in a Priority Product solely as a contaminant.

21  
22 (13) "Alternatives Analysis Threshold" ~~means a concentration by weight specified by the~~  
23 ~~Department under section 69503.5(c).~~

24  
25 (14) ~~"Alternatives Analysis Threshold Exemption Notification"~~ means a notification  
26 submitted to the Department under section ~~69503.6~~ 69505.3.

27  
28 (4514) "Aqueous hydrolysis half-life" means the time required for the concentration of a  
29 chemical to be reduced ~~to by~~ one-half of its initial concentration after being introduced into  
30 water.

31  
32 (4615) "Assemble" means to fit, join, put, or otherwise bring together components to  
33 create a consumer product.

34  
35 (16) "Assembler" means any person who assembles a product containing a component  
36 that is a product subject to the requirements of this chapter.

37  
38 (17) "Atmospheric oxidation rate" means the rate of change or degradation of a chemical  
39 through the interaction with oxygen in the atmosphere.

40  
41 (4718) "Bioaccumulation" means ~~the following~~:

1 (A) ~~Accumulation of a chemical in an organism, tissues of an organism, or an individual~~  
2 ~~biological compartment of the environment, which absorbs the chemical at a rate greater than~~  
3 ~~that at which the chemical is lost; and~~

4 (B) ~~Bioaccumulation~~bioaccumulation, as specified in section 69405.2.

5  
6 (18) ~~“Certified assessor” means an individual that has been issued a “Certified~~  
7 ~~Alternatives Assessor” certificate by an accreditation body, under article 8.~~

8  
9 (19) ~~“Candidate Chemical” means a chemical that is a candidate for designation as a~~  
10 ~~Chemical of Concern, and that is identified as a Candidate Chemical under section 69502.2.~~

11  
12 (20)(A) “Chemical” means either of the following:

13 1. An organic or inorganic substance of a particular molecular identity, including any  
14 combination of such substances occurring, in whole or in part, as a result of a chemical  
15 reaction or occurring in nature, and any element, ion or uncombined radical, and any  
16 degradate, metabolite, or reaction product of a substance with a particular molecular identity;  
17 or

18 2. A chemical ingredient, which means a substance comprising one or more ~~of any~~  
19 ~~substance, element, ion, uncombined radical, degradate, metabolite, or reaction~~  
20 ~~products~~substances described in subparagraph 1.

21 (B) “Molecular identity” means the substance’s ~~physicochemical properties, chemical~~  
22 ~~structure and~~ listed below:

23 1. Agglomeration state;

24 2. Bulk density;

25 3. Chemical composition, including surface coating;

26 4. Crystal structure;

27 5. Dispersability;

28 6. Molecular structure;

29 7. Particle density;

30 8. Particle size and, size distribution, and surface area;

31 9. Physical form and shape, at room temperature and surface structure, reactivity, and  
32 ~~any other~~pressure;

33 10. Physicochemical properties that are;

34 11. Porosity;

35 12. Solubility in water and biologically relevant to whether the substance would be a  
36 ~~Chemical of Concern.~~ fluids;

37  
38 (2013) Surface charge; and

39 14. Surface reactivity.

1       (21) “Chemical of Concern” means a ~~chemical identified~~Candidate Chemical that has  
2 been designated as a Chemical of Concern under section ~~69502.2(a)~~, or a chemical listed by  
3 69503.5(b)(2)(B).

4  
5       (22) “Chemical Removal Intent Notification” and “Chemical Removal Confirmation  
6 Notification” mean the notifications submitted to the Department under section  
7 69502.3(b)-69505.2(a)(1)(A)1.

8  
9       (2123)(A) “Component” means a uniquely identifiable homogeneous material, part, piece,  
10 assembly, or subassembly, ~~system, or subsystem~~ that is a necessary or intended element of a  
11 consumer product ~~that:~~

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

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

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

15  
16       (22(B) “Homogeneous material” means either of the following:

17       1. One material of uniform composition throughout; or

18       2. A material, consisting of a combination of materials, that cannot be readily disjointed  
19 or separated into different materials by mechanical actions such as unscrewing, cutting,  
20 crushing, grinding, or abrasive processes.

21  
22       (24)(A) “Consumer product” or “Product” means any of the following:

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

24       2. A~~When applicable, a component that meets the definition of a~~ of an assembled  
25 “consumer product” specified in Health and Safety Code section 25251; or.”

26       3. ~~A component, or a homogeneous material within a component, that is identified,~~  
27 ~~under section 69503.4(a)(2)(B), as the minimum required focus of an AA.~~

28       (B)4. “Consumer product” or “Product” does not mean any historic product.

29       2. ~~“Historic product” means a product that ceased to be manufactured prior to the date~~  
30 ~~the product is listed as a Priority Product.~~

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

34  
35       (2325) “Contact information” means mailing and electronic ~~address~~addresses, headquarters  
36 location, phone number(s), title(s) if applicable, and website address.

37  
38       (24(26)(A) “Contaminant” means a chemical that is not an intentionally added  
39 ingredient in a product and the source(s) of the chemical in the product is/are one or more of  
40 the following:

41       1. A naturally occurring contaminant commonly found in raw materials that are  
42 frequently used to manufacture the product;

1        2. Air or water frequently used as a processing agent or an ingredient to manufacture  
2 the product;

3        3. A contaminant commonly found in recycled materials that are frequently used to  
4 manufacture the product; and/or

5        4. A processing agent, reactant, by-product, or intermediate frequently used to promote  
6 certain chemical or physical changes during manufacturing, and the incidental retention of a  
7 residue is not desired or intended.

8        (B) "Intentionally added ingredient" means a chemical that is deliberately used in the  
9 manufacture of a product where the continued presence is desired in the final product to  
10 provide a specific characteristic, appearance, or quality.

11        (C) "Processing agent" means a chemical used in a product manufacturing process to  
12 promote chemical or physical changes.

13        (D) "Recycled material" means a material that has been separated from a waste stream  
14 for the purpose of recycling the material as feedstock.

15  
16        (27) "Day" means calendar day. Periods of time are calculated by excluding the first day  
17 and including the last; except that the last day is excluded if it is a Saturday, Sunday, or other  
18 holiday specified in Government Code section 6700.

19  
20        (2528) "Department" means the Department of Toxic Substances Control.

21  
22        (26)(29) "Economically feasible" means that an alternative product or replacement chemical  
23 does not significantly reduce the manufacturer's operating margin.

24  
25        (30) "End-of-life" means the point when the product is discarded by the consumer or the  
26 end of the useful life of the product, whichever occurs first.

27  
28        (2731) "Environment" means the land, air, water, soil, minerals, flora, and fauna.

29  
30        (2832) "Environmental fate" means all of the following:

31        (A) Aerobic and anaerobic half-lives;

32        (B) Aqueous hydrolysis half-life;

33        (C) Atmospheric oxidation rate;

34        (D) Bioaccumulation;

35        (E) Biodegradation;

36        (F) Mobility in environmental media, as specified in section 69405.6;

37        (G) Persistence; and

38        (H) Photodegradation.

39  
40        (2933) "Environmental or toxicological endpoint" means any environmental or toxicological  
41 endpoint specified in chapter 54.

1 (3034) "Failure to Comply List" means the list prepared by the Department under section  
2 69501.2(dc).

3  
4 (3135) "Functionally acceptable" means that an alternative product meets both of the  
5 following requirements:

6 (A) The product complies with all applicable legal requirements; and

7 (B) The product performs the functions of the original product sufficiently well that  
8 consumers can be reasonably anticipated to accept the product in the marketplace.

9  
10 (3236) "Hazard trait" means any hazard trait specified or defined in chapter 54.

11  
12 (3337) "Hazard trait submission" means any health, safety, or environmental study of, or  
13 health, safety, or environmental data information regarding, a chemical ~~that has been submitted~~  
14 ~~to any government agency for any purpose or is required to be submitted to the Department~~  
15 ~~under this chapter or article 14 of chapter 6.5 of division 20 of the Health and Safety Code or~~  
16 ~~these regulations. When any study or datum indicates that a chemical manifests any hazard~~  
17 ~~trait, Precise chemical identity is part of any hazard trait submission, except as otherwise~~  
18 provided in section 69509(g).

19  
20 (34) ~~"Homogeneous material" means either of the following:~~

21 (A) ~~One material of uniform composition throughout; or~~

22 (B) ~~A material, consisting of a combination of materials, that cannot be disjointed or~~  
23 ~~separated into different materials by mechanical actions such as unscrewing, cutting, crushing,~~  
24 ~~grinding, or abrasive processes.~~

25  
26 (35(38) "Import" means to bring, or arrange to bring, a ~~consumer~~ product into the United  
27 States for purposes of placing the product into the stream of commerce in California. "Import"  
28 includes reimporting a ~~consumer~~ product manufactured or processed, in whole or in part, in the  
29 United States. "Import" does not include ordering a product manufactured outside of the  
30 United States if the product is ordered from a person located in the United States.

31  
32 (3639) "Importer" means a person who imports a ~~consumer~~ product into the United  
33 States product that is subject to the requirements of this chapter. "Importer" does not include a  
34 person that imports a product solely for use in that person's workplace if that product is not  
35 sold or distributed by that person to others.

36  
37 (3740) "Information" means data, documentation, records, graphs, reports, or any other  
38 depiction of specific pieces of knowledge.

39  
40 (3841) "Legal requirements" means ~~specifications and/or, performance standards, and/or~~  
41 labeling requirements that a chemical, product, or product packaging is required to meet under  
42 federal or California law.

1  
2 (3942) "Life cycle" means the sum of all activities in the course of a consumer product's  
3 entire life span, including raw materials extraction, resource inputs and other resource  
4 consumption, intermediate materials processes, manufacture, packaging, transportation,  
5 distribution, use, operation and maintenance, waste generation and management, reuse and  
6 recycling, and end-of-life disposal.

7  
8 (4043) "Manufacture" means to make, ~~or produce, or assemble.~~ "Manufacture" does not  
9 include any acts that meet the definition of the following actions, unless the action results in the  
10 addition, or increased concentration, of a Chemical of Concern, or replacement of a Chemical  
11 of Concern, in a product: "assemble."

12 (A) ~~Repair or refurbishment of an existing consumer product;~~

13 (B) ~~Installation of standardized components to an existing consumer product; or~~

14 (C) ~~Making non-material alterations to an existing consumer product.~~

15  
16 (41

17 (44) "Manufacturer" means any person who manufactures a product that is subject to the  
18 requirements of this chapter, or any person that controls the ~~specifications and design of,~~  
19 ~~or manufacturing process for,~~ or has the capacity to specify the use of materials ~~chemicals~~ in,  
20 such a product.

21  
22 (4245)(A) "Materials and resource consumption" means the consumption of renewable and  
23 nonrenewable resources that are used for a consumer product throughout its life cycle.

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

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

29 1. An inherently finite resource that is formed over long periods of geologic time,  
30 including petroleum, coal, ~~metals (mined and recycled),~~ metals, minerals, and other finite  
31 resources; and

32 2. A resource that meets the definition of a renewable resource, specified in  
33 subparagraph (B), but the resource is consumed at a rate that exceeds the rate at which it is  
34 replaced such that its continued use ~~would~~ will drive the resource to exhaustion.

35  
36 (4346) "Persistence" means environmental persistence, as specified in section 69405.3.

37  
38 (4447) "Person" has the same meaning as in Health and Safety Code section 25118.

39  
40 (4548) "Physical chemical hazards" means physical hazard traits specified in article 6 of  
41 chapter 54.

1 (4649) “Physicochemical properties” means the physicochemical properties specified in  
2 section 69407.2.

3  
4 (4750)(A) ~~“Place~~Placed into the stream of commerce in California” means ~~to sell, offer for~~  
5 ~~sale, distribute, supply, or manufacture~~that a consumer product has been sold, offered for sale,  
6 distributed, supplied, or manufactured in or for use in California as a finished product or as a  
7 component in an assembled product.

8 (B) ~~“Sell~~Sold or offeroffered for sale” means any transfer or offer to transfer for  
9 consideration of title or the right to use, by lease or sales contract, including, but not limited to,  
10 transactions conducted and offers made through sales outlets, catalogs, or the Internet, ~~or any~~  
11 other similar electronic means.

12  
13 ~~(48(51)(A))~~ “Potential” means that the phenomenon described is reasonably  
14 foreseeable based on reliable information.

15 (B) Subparagraph (A) does not apply to the use of the term “potential” in paragraph (2)  
16 above or section 69502.2(a)(1)(M).

17  
18 (52) “Practical Quantitation Limit” or “PQL” means the lowest concentration of a chemical  
19 that can be reliably measured within specified limits of precision and accuracy using routine  
20 laboratory operating procedures.

21  
22 (53) “Priority Product” means a product identified and listed as a Priority Product by the  
23 Department under section 69503.45.

24  
25 ~~(49) “Processing agent” means a chemical used in a product manufacturing process to~~  
26 ~~promote chemical or physical changes.~~

27  
28 ~~(50) “Recycled material” means a material that has been separated from a waste stream~~  
29 ~~for the purpose of recycling the material as feedstock.~~

30  
31 ~~(54(54))~~ “Product-Chemical Replacement Intent Notification” and “Product-Chemical  
32 Replacement Confirmation Notification” mean the notifications submitted to the Department  
33 under section 69505.2(a)(1)(A)3.

34  
35 (55) “Product Removal Intent Notification” and “Product Removal Confirmation  
36 Notification” mean the notifications submitted to the Department under section  
37 69505.2(a)(1)(A)2.

38  
39 (56) “Release” means an intentional or unintentional liberation, emission, or discharge of  
40 a chemical into the environment.

1       ~~(5257)~~ “Reliable information” means ~~a scientific study or other~~ information that is ~~one or~~  
2 ~~more of~~ trustworthy based on the following:

3       ~~(A)~~(A) The level of rigor attendant to the generation of the information, including, where  
4 relevant, the use of quality controls;

5       (B) The degree to which the information has been independently reviewed by qualified  
6 disinterested parties;

7       (C) The degree to which the information has been independently confirmed,  
8 corroborated, or replicated; and/or

9       (D) With respect to a scientific study, the fact that the study meets both of the following  
10 criteria:

11       1. The study was:

12       a. Published in a scientifically peer reviewed report or other literature;

13       ~~(B)~~b. Published in a report of the United States National Academies;

14       ~~(C)~~c. Published in a report by an international, federal, state, or local agency that  
15 implements laws governing chemicals; and/or

16       ~~(D)~~d. Conducted, developed, submitted, prepared for, or reviewed and accepted by an  
17 international, federal, state, or local agency for compliance or other regulatory purposes.

18  
19       ~~(532. The study design was appropriate to the hypothesis being tested, and sufficient to~~  
20 support the proposition(s) for which the study is presented to the Department.

21  
22       (58) “Reliable information demonstrating the occurrence, or potential occurrence, of  
23 exposures to a chemical” means any of the following that meet the definition of reliable  
24 information:

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

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

27       2. Present in, or released from, products used in or present in ~~the home~~homes,  
28 schools, or places of employment;

29       3. Accumulative or persistent in the environment; or

30       4. Accumulative in aquatic, avian, animal, or plant species.

31       (B) Biomonitoring data from one of the following sources that show the chemical to be  
32 present in human organs, tissues, or fluids ~~including data from either of the following:~~

33       1. California Environmental Contaminant Biomonitoring Program; and/or

34       2, ~~Center.~~ United States Centers for Disease Control's Control and Prevention's  
35 National Health and Nutrition Evaluation Survey biomonitoring data.

36       (C) Evidence that a chemical exhibits the hazard trait for any of the following:

37       1. Bioaccumulation;

38       2. Persistence; or

39       3. Lactational or transplacental transfer, as specified in section 69405.5.

40       (D) Exposure or environmental modeling that indicates either of the following:

41       1. Exposure point concentration(s) associated with adverse ~~public health or~~  
42 environmental impacts; or

1 2. Environmental accumulation of a chemical.

2 (E) Monitoring data indicating the presence of a chemical or its degradation products in  
3 California solid waste, wastewater, biosolids, or storm water streams collected or managed by  
4 California State or local agencies in concentrations or volumes that:

5 1. ~~Contribute~~Potentially contribute to or cause adverse ~~public health or environmental~~  
6 impacts;

7 2. ~~Would require~~Require the expenditure of public funds to mitigate potential adverse  
8 ~~public health or environmental~~ impacts associated with the chemical or its degradation  
9 products;

10 3. Increase the costs of reusing or recycling materials containing the chemical or its  
11 degradation products;

12 4. Interfere with the proper operation of solid waste, wastewater, or storm water  
13 treatment systems and result in the discharge of the chemical or its degradation products to  
14 the environment;

15 5. Exceed regulatory thresholds for the chemical or its degradation products; or

16 6. Result in violations of the permit issued to the facility responsible for managing solid  
17 waste, wastewater, biosolids or storm water streams.

18  
19 ~~(54)~~(59) “~~Replacement Candidate Chemical~~” or “~~replacement chemical~~” means a Candidate  
20 Chemical or other chemical, whichever is applicable, that replaces, or is under consideration to  
21 replace, the Chemical(s) of Concern, in whole or in part, in an alternative to the Priority  
22 Product, and that is one of the following:

23 (A) A chemical that is not present in the Priority Product; or

24 (B) A chemical that is present at a lower concentration in the Priority Product relative to  
25 other chemicals in the Priority Product other than the Chemical(s) of Concern.

26  
27 ~~(60)~~ “Responsible entity” means any of the following:

28 ~~(A) The manufacturer of a consumer product.~~

29 ~~(B) The importer of a consumer product.~~

30 ~~(C) The retailer of a consumer product.~~

31  
32 ~~(55)~~(A) Manufacturer;

33 (B) Importer;

34 (C) Assembler; or

35 (D) Retailer.

36  
37 ~~(61)~~ “Retailer” means a person to whom a ~~consumer product~~product that is subject to the  
38 requirements of this chapter is delivered or sold for purposes of sale or distribution by ~~the~~that  
39 person to a consumer.

40  
41 ~~(56)~~(62) “Safer alternative” means an alternative that, in comparison with ~~the existing Priority~~  
42 Product, reduces, avoids, or eliminates the use of, and/or another product or product

1 manufacturing process, has reduced potential adverse impacts and/or potential exposures  
2 to, associated with one or more Candidate Chemical(s), Chemical(s) of Concern, so as to  
3 reduce adverse public health and environmental impacts and/or replacement chemicals,  
4 whichever is/are applicable.

5  
6 (5763) "Sales outlet" means any place at which consumer products are sold, supplied, or  
7 offered for sale directly to consumers in California.

8  
9 (5864) "Sensitive subpopulations" means subgroups that comprise a meaningful portion of  
10 the general population that are identifiable as being at greater risk of adverse health effects  
11 when exposed to one or more chemicals that exhibit a hazard trait and/or toxicological  
12 endpoint, including, but not limited to, infants, children, pregnant women, and elderly  
13 individuals. "Sensitive subpopulations" also include persons at greater risk of adverse health  
14 effects when exposed to chemicals, because they are either individuals with a history of  
15 serious illness or greater exposures to chemicals, or workers with greater exposures to  
16 chemicals due to the nature of their occupation.

17  
18 (5965) "~~Technically and economically feasible alternative~~" means ~~an alternative product or~~  
19 ~~chemical for which:~~

20 (A) ~~The~~ that the technical knowledge, equipment, materials, and other resources  
21 available in the marketplace are expected to be sufficient to develop and implement ~~the~~  
22 ~~alternative, and to meet consumer demand after an appropriate phase-in period; and an~~  
23 alternative product or replacement chemical.

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

25  
26 (60

27 (66) "Trade secret" means "Trade ~~Secret~~secret" as defined in Civil Code section  
28 3426.1(d).

29  
30 (6477) "Useful life" means the period of time during which a product can be used ~~for its~~ as  
31 ~~intended use,~~ expressed in terms of a single use, number of applications, or days, months, or  
32 years of use.

33  
34 NOTE: Authority cited: Sections 25252, 25253, and 58012, Health and Safety Code.  
35 Reference: Sections 25251, 25252, 25253, and 25257, Health and Safety Code, Section 1060,  
36 Evidence Code, and Sections 3426 through 3426.11, inclusive, Civil Code.

37  
38 **§ 69501.2. Duty to Comply and Consequences of Non-Compliance.**

39 (a) Duty to Comply.

40 (1)(A) A manufacturer has the principal duty to comply with requirements applicable to a  
41 responsible entity. In the event a manufacturer does not comply, it shall be the duty of the  
42 importer, if any, to comply. A retailer if the Department provides notice to the importer under

1 subsection (c)(1). A retailer or assembler is required to comply with the requirements  
2 applicable to a responsible entity only if the manufacturer and the importer have failed to  
3 comply and the Department ~~notifies~~ provides notice to the retailer or assembler of such non-  
4 compliance by posting the information on the Failure to Comply List, ~~under subsection~~  
5 (d)(4)(C).

6 (B) Notwithstanding subparagraph (A), the provisions of sections 69505.2 and 69505.3  
7 may only be fulfilled by the manufacturer.

8 (C) The Department may not require any responsible entity other than the manufacturer  
9 to comply with a regulatory response under sections 69506.6 through 69506.8. However, if  
10 the manufacturer fails to comply and the Department provides notice under subparagraph (A),  
11 the importer shall cease to place the product into the stream of commerce in California and  
12 each retailer and assembler shall cease ordering the product, no later than ninety (90) days  
13 after the Department has provided such notice.

14 (2) Except for the requirement to submit a notification under sections 69503.6~~7~~,  
15 69505.2, or 69503.769505.3, the requirements of this chapter applicable to a responsible entity  
16 may be fulfilled by a consortium, trade association, public-private partnership, non-profit  
17 organization, or other entity acting on behalf of, or in ~~lieu~~the stead of, the responsible entity.

18 (b) ManufacturerRetailer and ImporterAssembler Options.

19 ~~(1) Priority Product Removal Notification. A responsible entity that is the manufacturer~~  
20 A retailer or importer of assembler who has received a product notice from the Department  
21 under subsection (a)(1)(A) is not responsible for complying with the applicable requirements of  
22 this chapter if the manufacturer or importer provides a written notice to the Department  
23 containing information demonstrating to the Department's satisfaction that the product is no  
24 longer placed into the stream of commerce in California. The notice shall be provided no later  
25 than the due date for compliance with the requirement. The notice must include all of the  
26 following information:

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

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

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

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

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

- 1       ~~1. The manufacturer's or importer's name and contact information;~~
- 2       ~~2. The name of, and contact information for, all persons in California, other than the~~
- 3 ~~final purchaser or lessee, to whom the manufacturer or importer directly sold the product within~~
- 4 ~~the prior twelve (12) months;~~
- 5       ~~3. Identification and location of the manufacturer's or the importer's retail sales outlets~~
- 6 ~~where the manufacturer or importer sold, supplied, or offered for sale the product in California,~~
- 7 ~~if applicable;~~
- 8       ~~4. Information describing the Priority Product that is replaced by the new product,~~
- 9 ~~including the brand name(s) and product name(s) under which the Priority Product was placed~~
- 10 ~~into the stream of commerce in California;~~
- 11       ~~5. Information describing the new product that replaces the Priority Product, including~~
- 12 ~~the brand name(s) and product name(s) under which the product is placed into the stream of~~
- 13 ~~commerce in California, and the Chemical(s) of Concern in the new product; and~~
- 14       ~~6. A copy of the notice provided under paragraph (1).~~
- 15       ~~(B) Subparagraph (A) does not apply to a replacement product that was the selected~~
- 16 ~~alternative from an AA conducted under article 5.~~
- 17       ~~(c) Retailer Option.~~
- 18       ~~A retailer of a consumer product for which the Department has provided notice under~~
- 19 ~~subsection (a)(1), shall not be held responsible for complying with the requirements specified~~
- 20 ~~in the notice if:~~
- 21       (1) The manufacturer or importer complies with the requirement specified in the
- 22 Department's notice, ~~or fulfills the requirements of subsection (b),~~ within sixty (60) within ninety
- 23 (90) days after the Department issues the notice; or
- 24       (2) The retailer or assembler complies with both of the following requirements:
- 25       (A) The retailer or assembler ceases ordering the product no later than ninety (90) days
- 26 after the Department has provided notice under subsection (a)(1)(A); and
- 27       (B) No later than ninety (90) days after the Department has provided notice under
- 28 subsection (a)(1)(A), the retailer or assembler submits a Priority Product Cease Ordering
- 29 Notification to notify informing the Department that it the retailer or assembler has ceased
- 30 ordering the product, and provides the following information to the Department:
- 31       1. The name of, and contact information for, the retailer or assembler, whichever is
- 32 applicable;
- 33       2. The name of, and contact information for, the manufacturer(s) and importer;(s);
- 34       3. Identification and location of the retailer's sales outlets where the product is sold,
- 35 supplied, or offered for sale in California; if applicable;
- 36       4. The name of, and contact information for, the person immediately upstream from the
- 37 retailer or assembler, as applicable, in the supply chain for the product;
- 38       5. Information describing the product, ~~including~~ and the brand name(s) and product
- 39 name(s) under which the retailer placed ~~the retailer's or assembler's product is placed~~ into the
- 40 stream of commerce in California; and, and, if the product is a component of one or more
- 41 assembled products, a description of the known product(s) in which the component is used;

1       66. The length of time the retailer or assembler estimates will be needed to exhaust the  
2 remaining inventory of the Priority Product; and

3       7. A statement certifying that the retailer or assembler will not re-initiate ordering the  
4 product unless and until information posted on the Department's website indicates that the  
5 non-compliance has been remedied.

6       (~~d~~) Failure to Comply List.

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

10       (B) A notice of non-compliance must include a description of the nature of the non-  
11 compliance, the steps necessary to achieve compliance, and the Department's intent to place  
12 information concerning the determination of non-compliance on the Failure to Comply List on  
13 its website ~~under paragraph (4).~~

14       (2) If the non-compliance has not been remedied to the satisfaction of the Department,  
15 within forty-five (45) days after the issuance of the notice of non-compliance, the Department  
16 shall post information concerning the determination of non-compliance on the Failure to  
17 Comply List on its website ~~under paragraph (4).~~ The Department shall post ~~the~~this  
18 information on the Failure to Comply List not ~~less than forty-five (45) days and not later than~~  
19 ~~ninety (90) days after issuing the notice of non-compliance. The non-compliance is deemed to~~  
20 ~~be remedied when the Department determines either that the requirements of subsection~~  
21 ~~(b)(1) have been fulfilled, or that the condition of non-compliance has been fully remedied.~~

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

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

27       (A) Information identifying and describing the product, ~~including~~and the brand name(s)  
28 and product name(s) under which the product is placed into the stream of commerce in  
29 California, and, if the product is a component of one or more assembled products, a  
30 description of the known product(s) in which the component is used;

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

33       (C) A statement placing retailers ~~of the product~~and, if applicable, assemblers on notice  
34 under subsection (a)(1)(A) of the failure to comply by the manufacturer(s) and the importer(s),  
35 under subsection (a)(1), including identification of the requirement with which the retailer and, if  
36 applicable, assembler shall comply and the timeframe for compliance, which willshall be no  
37 less than ninety (90) days after the notice is posted on the Department's website;

38       (D) The Chemical(s) of Concern and any other Candidate Chemical(s) known to the  
39 Department to be present in the product;

40       (E) The name of and, if known, the contact information for ~~the~~any person(s) listed on the  
41 product label as the manufacturer ~~and the person, if any, listed as the,~~ importer, or distributor;

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

3 (G) The name of, and contact information for, ~~retailers of the product and, if applicable,~~  
4 assemblers known to the Department who have not fully complied with the requirements of  
5 subsection (e**b**); and

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

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

10 (6) The Department shall remove information concerning a retailer or an assembler from  
11 the Failure to Comply List if the Department determines that the retailer or assembler has fully  
12 complied with subsection (e**b**).

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

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

16  
17 **§ 69501.3. Information Submission and Retention Requirements.**

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

22 (b) Format. ~~All information documents~~ submitted to the Department must be in English,  
23 and must be generated and submitted in a manner and in an electronic format specified by the  
24 Department.

25 ~~(c) All Priority Product Removal Notifications, Priority Product Replacement~~  
26 ~~Notifications, Priority Product Cease Ordering Notifications, Alternatives Analysis Threshold~~  
27 ~~Exemption Notifications, Chemical of Concern Removal Notifications, AA Reports, and~~  
28 ~~submissions of information claimed to constitute trade secrets~~(c) Certification Statement.  
29 All documents required to be submitted to the Department under this chapter must include the  
30 following certification statement, signed by the owner or an officer of the entity submitting the  
31 document, whose responsibilities include product development, product safety, or related  
32 responsibilities pertinent to the documents listed in this paragraph, and by the responsible  
33 individual in charge of preparing, or overseeing the preparation of, the information:

34  
35 "I certify ~~under penalty of perjury~~ that this document and all attachments were prepared or  
36 compiled under my direction or supervision to assure that qualified personnel properly  
37 gathered and evaluated the information submitted. Based on my inquiry of the person(s)  
38 directly responsible for gathering the information, the information submitted is, to the best of  
39 my knowledge and belief, true, accurate, and complete. I am aware that submitting false  
40 information or statements is a ~~punishable offense~~violation of law."

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

4 ~~(e)~~ Document Retention. A person who is subject to a requirement to obtain or prepare  
5 information, but who is not required to submit the information to the Department or has not yet  
6 been requested to submit the information to the Department, shall retain the information for a  
7 period of three (3) years following the date the person was required to obtain or prepare the  
8 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 **§ 69501.4. Chemical and Product Information.**

14 ~~(a)~~—~~(a)(1)~~ Information Gathering. The Department shall seek to obtain and/or review  
15 information that it determines is necessary to implement this chapter using one or more of the  
16 following approaches:

17 ~~(4A)~~ Obtain and/or review information in the public domain that is readily available in a  
18 usable format, without a subscription or other charge;

19 ~~(2B)~~ Obtain and/or review information in the public domain that is readily available in a  
20 usable format, with a subscription or other charge, to the extent resources are available to pay  
21 the required costs;

22 ~~(3C)~~ Request a ~~responsible entity~~ one or a more product or ~~chemical manufacturer or~~  
23 ~~importer~~ manufacturers, importers, assemblers, and/or retailers to make existing information  
24 available to the Department, in accordance with a schedule specified by the Department;  
25 and/or

26 ~~(4D)~~ Request a ~~responsible entity~~ one or a more product or ~~chemical manufacturer or~~  
27 ~~importer~~ manufacturers, importers, assemblers, and/or retailers to generate new information  
28 and provide it to the Department, in accordance with a schedule specified by the Department.

29 ~~(2)~~ For purposes of this section, the terms “manufacturer”, “importer”, “assembler”, and  
30 “retailer”, mean the manufacturer, importer, assembler, and retailer of any product or chemical,  
31 not just those products or chemicals subject to the requirements of this chapter.

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

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

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

41 ~~(c)(4)~~ Response Status List.

1 (1) The Department shall maintain and post on its website a Response Status List. The  
2 Response Status List shall be used to provide notice that a ~~responsible entity or a chemical~~  
3 ~~manufacturer or importer, or a person, who has been requested to provide information to the~~  
4 ~~Department under this section, or someone~~ acting on behalf of or in lieu ~~the stead~~ of that  
5 ~~entity~~ person, has done one of the following:

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

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

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

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

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

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

23 (1) Voluntarily completed an ~~alternative~~ alternatives analysis on a consumer product that  
24 has not been listed as a Priority Product; and/or

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

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

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

30  
31 **§ 69501.5. Availability of Information on the Department's Website.**

32 (a) Website Postings Requiring Noticing. The Department shall post on its website, and  
33 update as appropriate, all of the information ~~and documents~~ listed below. The Department  
34 shall also provide notice of the availability of ~~these documents and~~ the information, including  
35 the availability of updates to the ~~documents and~~ information, to individuals on the electronic  
36 mailing list(s) that the Department establishes related to this chapter.

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

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

39 (3) Proposed and final Candidate Chemicals of Concern and Priority Products lists and  
40 revisions to the lists, supporting rationale and documentation, ~~prepared under sections~~  
41 ~~69502.3 and 69503.4~~, copies of all written comments received during the public comment

1 ~~period~~periods for the proposed ~~list~~lists, and copies of ~~any~~ written responses the Department  
2 provides to the comments.

3 (4) Petitions designated as complete under section 69504(c), and notices of decision  
4 and statements of basis prepared by the Department under section 69504.1(d).

5 (5) A list of due date extension requests approved for submission of AA Reports.

6 (6) AA Report notices of public review periods, notices of compliance, notices of  
7 deficiency, notices of disapproval, and notices of ongoing review ~~issued under section~~  
8 ~~69505.6~~.

9 (7) Proposed and final regulatory response determination notices issued by the  
10 Department ~~under section 69505.6(c) and article 6~~, copies of all written comments received  
11 during the public comment period for a proposed ~~notice~~regulatory response determination, and  
12 copies of ~~any~~ written responses the Department provides to the comments.

13 (8) A list of regulatory response exemption requests submitted to the Department ~~under~~  
14 ~~section 69506.14~~, and copies of all ~~notifications~~notices issued by the Department granting,  
15 denying, or rescinding a regulatory response exemption.

16 (9) Copies of all disputes and Requests for Review filed with the Department under  
17 article 7, and copies of all Department decisions, and notices of ongoing review, issued in  
18 response to disputes and Requests for Review.

19 ~~(10) A list of accreditation bodies whose designation has been revoked by the~~  
20 ~~Department under section 69508.3(d) or (g), and a list of certified assessors whose~~  
21 ~~certification has been reprovved, suspended, place on probation, or revoked under section~~  
22 ~~69508 (e).~~

23 ~~(b)~~ (b) Additional Website Postings. The Department shall also post on its website, and  
24 update as appropriate, all of the following information ~~and documents~~:

25 (1) The Response Status List prepared under section 69501.4(c).

26 (2) ~~The~~Any Safer Consumer Products Partner Recognition List prepared under section  
27 69501.4(d).

28 (3) As the following information becomes available, the Department shall add it to the  
29 Priority Products list, posted on the Department's website, for each product that is a Priority  
30 Product, and maintain and update this information for as long as the Priority Product continues  
31 to be placed into the stream of commerce in California:

32 (A) Brand name(s) and product name(s) for the product, and, if the product is a  
33 component of one or more assembled products, a description of the known product(s) in which  
34 the component is used;

35 (B) Product manufacturer(s) and importers, except for those manufacturers ~~or importers~~  
36 that have ~~complied with the requirements of~~submitted a timely and compliant Confirmation  
37 Notification under section 69504~~69505.2(b)~~;

38 (C) Other responsible entities for the product, except for the responsible entities that  
39 have complied with the requirements of section 69501.2(eb);

40 (D) The identity of the person ~~that has been identified as being the person that~~who will  
41 fulfill the requirements of article 5, as reflected in the Priority Product Notification;

1 (E) The due dates for, and dates of receipt of, each ~~Preliminary~~applicable AA Report  
2 and ~~Final~~each Alternate Process AA Report~~Work Plan~~; and

3 (F) Lists of, and copies of, all of the following that have been submitted to the  
4 Department for each product, including the date of receipt:

5 1. Priority Product Notifications;

6 2. Alternatives Analysis Threshold ~~Exemption~~-Notifications, and ~~notices~~notifications  
7 submitted to the Department under subsections (c) and (d) of section ~~69503.6~~69505.3, and  
8 notices issued by the Department under section ~~69503.6~~69505.3(e);

9 3. ~~Priority~~ 3. Chemical Removal Intent and Confirmation Notifications;

10 4. Product Removal Intent and Confirmation Notifications, and, ~~when applicable, the~~  
11 ~~associated Priority~~;

12 5. Product-Chemical Replacement Notifications;

13 4. ~~Chemical of Concern Removal~~Intent and Confirmation Notifications; and

14 5. ~~Priority~~ 6. Product Cease Ordering Notifications; submitted to the Department under  
15 section 69501.2(b)(2).

16 (4) Guidance documents prepared by the Department under section 69505(a).

17 (5) AAs made available by the Department under section 69505(b).

18 (6) A list of all ~~Preliminary~~ AA Reports, ~~Final~~ AA Reports, ~~Abridged~~ AA Reports, and  
19 Alternate Process AA Work Plans ~~that have been submitted to the Department under article 5,~~  
20 the executive summary for each document, the date of receipt, and a full or redacted copy of  
21 each document, including both the originally submitted document and the document approved  
22 by the Department, if different.

23 (7) A list, and copies, of all ~~notifications~~notices issued by the Department, and all  
24 documents submitted to the Department, under section ~~69506.6~~5.

25 (8) Copies of, or links to, product stewardship plans, substitute end-of-life management  
26 programs, exemptions from end-of-life management program requirement, and copies of  
27 annual end-of-life program reports.

28 (9) ~~The~~Regulatory response notifications submitted to the Department under  
29 subsections (a) and (c) of section 69506.10, and the Regulatory Response Summary prepared  
30 and updated by the Department under section 69506.4~~2~~10(d).

31 (10) ~~A list of entities that have been designated as accreditation bodies under section~~  
32 ~~69508.3, and a list of certified assessors who have been accredited under section 69508. The~~  
33 ~~Department shall update these lists whenever an accreditation body's designation is revoked,~~  
34 ~~or an assessor's certification is reprovod, suspended, placed on probation, or revoked.~~

35 (11)(10) Findings of audits conducted by the Department under section ~~69509~~69508.

36 (c) Website Posting Date. All ~~documents and information posted on the Department's~~  
37 website under this chapter must include the date the document or information is first posted  
38 and the date(s) of any revised postings.

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 **Article 2. Process for Identifying Candidate Chemicals of Concern Identification**  
2 **Process**

3  
4 **§ 69502. General.**

5 (a) — This article identifies Candidate Chemicals that can be considered under article 3 for  
6 designation as a Chemical of Concern, and specifies the process by which the Department  
7 may identify additional Candidate Chemicals of Concern.

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

10  
11 NOTE: Authority cited: Sections 25252 and 58012, Health and Safety Code. Reference:  
12 Section 25252, Health and Safety Code.

13  
14 **§ 69502.1. Applicability.**

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

18  
19 NOTE: Authority cited: Sections 25252, 25253, and 58012, Health and Safety Code.  
20 Reference: Sections 25252 and 25257.1, Health and Safety Code.

21  
22 **§ 69502.2. Candidate Chemicals of Concern Identification.**

23 (a) ~~Initial~~Candidate Chemicals of Concern-List. As of the effective date of these  
24 regulations, a chemical is identified as a Candidate Chemical of Concern, if it exhibits a hazard  
25 trait and/or an environmental or toxicological endpoint, and meets one or both of the following  
26 criteria:

27 (1) — ~~The chemical is one or more of the following types of chemicals that are identified as~~  
28 ~~exhibiting a hazard trait or an environmental or toxicological endpoint~~(1) The chemical is on  
29 one or more of the lists specified below:

30 (A) Chemicals known to cause cancer and/or reproductive toxicity that are listed under  
31 Health and Safety Code section 25249.8 of the California Safe Drinking Water and Toxic  
32 Enforcement Act of 1986;

33 (B) ~~Category~~Chemicals classified as carcinogens, mutagens, and/or reproductive  
34 toxicants Categories 1A and 1B chemicals identified in the European Union in Annex VI to  
35 Regulation (European Commission) 1272/2008 Annex VI due to carcinogenicity, reproductive  
36 toxicity, and/or mutagenicity;

37 (C) ~~Category 4~~Chemicals included as endocrine disruptors identified in the in the  
38 candidate list of Substances of Very High Concern in accordance with Article 59 of Regulation  
39 (European Commission-DG Env report, Towards the establishment of a priority list of  
40 substances for further evaluation of their role in endocrine disruption,  
41 M0355008/1786Q/10/11/00) 1907/2006;

- 1 (D) Chemicals for which a reference dose or reference concentration has been  
2 developed based on neurotoxicity in the United States Environmental Protection Agency's  
3 Integrated Risk Information System;
- 4 (E) Chemicals that are identified as "carcinogenic to humans", "likely to be carcinogenic  
5 to humans", or ~~Group~~Groups A, B1, or B2 carcinogens in the United States Environmental  
6 Protection Agency's Integrated Risk Information System;
- 7 (F) Chemicals that are identified as "known to be" or "reasonably anticipated to be" a  
8 human carcinogen in the 12th Report on Carcinogens, United States Department of Health  
9 and Human Services, Public Health Service, National Toxicology Program;
- 10 ~~(G) Chemicals that are identified as High Production Volume Persistent Bioaccumulating~~  
11 ~~Toxins by the European Union;~~
- 12 (G) Chemicals included as persistent, bioaccumulative and toxic, or very persistent and  
13 very bioaccumulative in the candidate list of Substances of Very High Concern in accordance  
14 with Article 59 of Regulation (European Commission) 1907/2006;
- 15 (H) Chemicals that are identified as Persistent, Bioaccumulative, and Inherently Toxic to  
16 the environment by the Canadian Environmental Protection Act Environmental Registry  
17 Domestic Substances List;
- 18 (I) Chemicals classified as respiratory sensitizers Category 1 in Annex VI to Regulation  
19 (European Commission) 1272/2008;
- 20 (J) Groups 1, 2A, and 2B carcinogens identified by the International Agency for  
21 Research on Cancer;
- 22 (JK) Neurotoxicants that are identified in the Agency for Toxic Substances and Disease  
23 Registry's Toxic Substances Portal, Health Effects of Toxic Substances and Carcinogens,  
24 Nervous System;
- 25 (KL) Persistent Bioaccumulative and Toxic Priority Chemicals that are identified by the  
26 United States Environmental Protection Agency's National Waste Minimization Program;
- 27 (LM) Reproductive or developmental toxicants identified in Monographs on the Potential  
28 Human Reproductive and Developmental Effects, National Toxicology Program, Office of  
29 Health Assessment and Translation;
- 30 (MN) United States Environmental Protection Agency's Toxics Release Inventory  
31 Persistent, Bioaccumulative and Toxic Chemicals that are subject to reporting under the  
32 Emergency Planning and Community Right-to-Know Act section 313; and/or
- 33 (NO) Washington Department of Ecology's Persistent, Bioaccumulative, Toxic Chemicals  
34 identified in the Washington Administrative Code, title 173, chapter 173-333.
- 35 (2) The chemical is one or more of the following types of chemicals:
- 36 (A) Chemicals for which Notification Levels, as defined in Health and Safety Code  
37 section 116455, have been established by the California Department of Public Health;
- 38 (B) Chemicals for which primary Maximum Contaminant Levels have been established  
39 and adopted under ~~sections~~section 64431 or section 64444 of chapter 15 of ~~Title~~title 22 of the  
40 California Code of Regulations;
- 41 (C) ~~Chemicals that are air pollutants that may contribute to or cause an increase in~~  
42 ~~mortality or an increase in serious illness or which may pose a present or potential hazard to~~

1 ~~human health, and are~~ identified as Toxic Air Contaminants under sections 93000 and 93001  
2 of ~~Title~~title 17 of the California Code of Regulations;

3 (D) Chemicals that are identified as priority ~~toxic~~ pollutants in ~~the~~ California Water  
4 Quality Control Plans under section 303(c) of the federal Clean Water Act and in section  
5 131.38 of ~~Title~~title 40 of the Code of Federal Regulations, or identified as pollutants by  
6 California or the United States Environmental Protection Agency for one or more water bodies  
7 in California pursuant to section 303(d) of the federal Clean Water Act and section 130.7 of title  
8 40 of the Code of Federal Regulations;

9 (E) Chemicals that are identified with non-cancer endpoints and listed with an inhalation  
10 or oral Reference Exposure Level by the California Office of Environmental Health Hazard  
11 Assessment under Health and Safety Code section 44360(b)(2);

12 (F) Priority Chemicals that are identified under the California Environmental  
13 Contaminant Biomonitoring Program;

14 (G) Chemicals that are identified on the Centers for Disease Control and Prevention's  
15 *Fourth National Report on Human Exposure to Environmental Chemicals and Updated Tables*;  
16 and/or

17 (H) Chemicals that are identified on Part A of the list of Chemicals for Priority Action,  
18 Oslo and Paris Conventions for the Protection of the Marine Environment of the North-East  
19 Atlantic.

20 (b) Additions to the Candidate Chemicals of Concern-List. In addition to the chemicals  
21 identified as Candidate Chemicals of Concern under subsection (a), the Department may  
22 identify as Candidate Chemicals those chemicals, ~~which that~~ exhibit one or more hazard traits  
23 and/or environmental or toxicological endpoints, as Chemicals of Concern by considering the  
24 following factors for which reliable information is available:

25 (1) Adverse Impacts.

26 (A) ~~The ability of the~~ Department shall evaluate the potential for the chemical to  
27 contribute to or cause adverse ~~public health and/or environmental~~ impacts, considering ~~reliable~~  
28 information relevant to one or more of the following factors:

29 1. The chemical's hazard trait(s) and/or environmental or toxicological endpoint(s);

30 2. The chemical's aggregate effects;

31 3. The chemical's cumulative effects with other chemicals with the same or similar  
32 hazard trait(s) and/or environmental or toxicological endpoint(s);

33 4. The chemical's ~~physical-chemical~~ hazards;

34 ~~5. The chemical's physicochemical properties;~~

35 ~~6.~~ 5. The chemical's environmental fate;

36 ~~7.~~ 6. The human populations, and/or aquatic, avian, or terrestrial animal or plant  
37 organisms ~~that would be adversely impacted; and for which the Candidate Chemical(s)~~  
38 has/have the potential to contribute to or cause adverse impacts; and/or

39 ~~8.~~ 7. The chemical's ability potential for the chemical to degrade, form reaction products,  
40 or metabolize into another Candidate Chemical of Concern or a chemical that exhibits one or  
41 more hazard traits and/or environmental or toxicological endpoints.

1 (B) ~~Based on reliable information, the~~The Department shall give special consideration to  
2 the ability of potential for the chemical to contribute to or cause adverse impacts for the  
3 following:

- 4 1. Sensitive subpopulations;
- 5 2. Environmentally sensitive habitats;
- 6 3. Endangered and threatened species; and listed by the California Department of Fish  
7 and Wildlife; and
- 8 4. Environments in California that have been designated as impaired by a California  
9 State or federal regulatory agency.

10 (C) ~~Based on reliable information, the~~The Department shall also give special  
11 consideration to the ability of potential for the chemical to contribute to or cause widespread  
12 adverse ~~public health and~~ impacts.

13 (D) The Department may also evaluate and consider, based on reliable information,  
14 structurally or environmental impacts, mechanistically similar chemicals for which there is a  
15 known toxicity profile.

16 (2) Exposures. The Department shall consider potential exposures to the chemical,  
17 ~~considering reliable~~ based on both of the following:

18 (A) Reliable information regarding potential exposures to the chemical; ~~and reliable~~

19 (B) Reliable information demonstrating the occurrence, or potential occurrence, of  
20 exposures to the chemical.

21 (3) ~~Availability of Information.~~ ~~The Department shall consider the extent of reliable~~  
22 ~~information that is available to substantiate adverse impacts and exposures. All other factors~~  
23 ~~being equal, a chemical for which there is a greater amount of reliable information to~~  
24 ~~substantiate adverse impacts and exposures, relative to other chemicals being evaluated, shall~~  
25 ~~be given higher priority for purposes of this subsection.~~

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

30  
31 NOTE: Authority cited: Sections 25252 and 58012, Health and Safety Code. Reference:  
32 Sections 25252 and 25257.1, Health and Safety Code.

### 33 34 **§ 69502.3. Candidate Chemicals of Concern List.**

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

40 (b) Revisions to the List. The Department may make additions to, or deletions from, the  
41 Candidate Chemicals of Concern list using the factors specified in section 69502.2(b) and the  
42 procedures specified in subsections (c) and (d).

1 (c) Public Notice of Proposed List Revisions. The Department shall make proposed  
2 revisions to the Candidate Chemicals of Concern list available on its website for public review  
3 and comment, along with supporting documentation, including the Department's rationale and  
4 a bibliography of the supporting information and information sources, prior to finalizing the  
5 revisions to the Candidate Chemicals of Concern list. The Department shall hold one or more  
6 public workshop(s) to provide an opportunity for ~~oral~~ comment on the proposed revisions to the  
7 list. The Department shall send to individuals on the electronic mailing list(s) that the  
8 Department establishes related to this chapter, and post on its website, a notice regarding the  
9 availability of the proposed revisions to the list and supporting documentation. The notice  
10 must include ~~all of the following~~:

11 (1) The last day for the public to submit written comments on the proposed revisions to  
12 the Candidate Chemicals of Concern list. The last day for submission of public comments  
13 shall be no sooner than forty-five (45) days from the date the notice of availability of the  
14 proposed revisions is posted on the Department's website or the date the notice is sent to  
15 individuals on the electronic mailing list(s) that the Department establishes related to this  
16 chapter, and posted on whichever is the Department's website; later date.

17 (2) The method(s) for submitting comments to the Department; ~~and,~~

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

19 (d) Website Posting of Final List Revisions. The Department shall post the final  
20 revisions to the Candidate Chemicals of Concern list on its website after review of public  
21 comments. The Department may respond to some or all public comments received.

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

25  
26 **Article 3. Chemicals of Concern Process for Identifying and Consumer Prioritizing**  
27 **Product Prioritization Process-Chemical Combinations**

28  
29 **§ 69503. General.**

30 (a) ~~—~~ This article specifies the process by which the Department shall ~~evaluate~~ identify and  
31 prioritize products containing Candidate Chemicals of Concern.

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

34  
35 NOTE: Authority cited: Sections 25252, 25253, and 58012, Health and Safety Code.  
36 Reference: Sections 25252 and 25253, Health and Safety Code.

37  
38 **§ 69503.1. Applicability.**

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

1 NOTE: Authority cited: Sections 25252, 25253, and 58012, Health and Safety Code.  
2 Reference: Sections 25251, 25252, 25253, and 25257.1, Health and Safety Code.

3  
4 **§ 69503.2. ~~Priority Products~~ Product-Chemical Identification and Prioritization**  
5 **Factors.**

6 (a) ~~Product~~Key Prioritization Factors.~~Principles.~~ Any product-chemical combination  
7 identified and listed as a Priority Product must meet both of the following criteria:

8 (1) There must be potential public and/or aquatic, avian, or terrestrial animal or plant  
9 organism exposure to the Candidate Chemical(s) in the product; and

10 (2) There must be the potential for one or more exposures to contribute to or cause  
11 significant or widespread adverse impacts.

12 (b) Identification and Prioritization Process. The Department may evaluate  
13 ~~products~~identify and list as a Priority Product one or more product-chemical combinations that  
14 it determines to be of high priority. The Department's decision to identify and list a product-  
15 chemical combination as a Priority Product shall be based on an evaluation of the product-  
16 chemical combination to determine the~~its associated potential~~ adverse impacts and potential  
17 exposures associated with the product, and potential adverse waste and end-of-life effects by  
18 considering the factors listed~~described~~ in paragraphs (1) through (3) and (2) for which  
19 information is reasonably available. Based on this evaluation the~~The~~ Department may identify  
20 and list as a Priority Product, consistent with the provisions of subsection (b) and the  
21 processes specified in sections 69503.3 and 69503.4, one or more products that it determines  
22 to be of high priority. additionally, in its discretion, consider paragraph (3).

23 (1)(A) Adverse Impacts and Exposures. The Department shall ~~consider~~begin the adverse  
24 ~~public health and environmental product-chemical combination evaluation process by~~  
25 evaluating the potential adverse impacts posed by the Candidate Chemical(s) of Concern in  
26 at the product due to potential exposures during the life cycle of the product. The Department's  
27 evaluation of potential adverse impacts and potential exposures must consider both of the  
28 following:

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

30 1. ~~The ability~~shall include consideration of one or more of the Chemical(s) of Concern  
31 in factors listed in section 69503.3(a) and one or more of the factors listed in section  
32 69503.3(b). The listing of a product-chemical combination as a Priority Product shall be based  
33 on one or more of the factors listed in section 69503.3(a) and one or more of the factors listed  
34 in section 69503.3(b), in addition to the other factors specified in this section.

35 (B) Adverse Waste and End-of-Life Effects. The Department may also consider product  
36 uses, or discharges or disposals, in any manner that have the potential to contribute to or  
37 cause adverse public health and/or environmental impacts, considering reliable~~waste and end-~~  
38 of-life effects associated with the Candidate Chemical(s) in the product.

39 (C) Availability of Information. The Department shall consider the extent and quality of  
40 information relevant to the following factors:that is available to substantiate the existence or  
41 absence of potential adverse impacts, potential exposures, and potential adverse waste and  
42 end-of-life effects.

1 a. ~~The Chemical(s) of Concern's~~(2) Other Regulatory Programs. The Department  
2 shall next consider the scope of other California State and federal laws and applicable treaties  
3 or international agreements with the force of domestic law under which the product or the  
4 Candidate Chemical(s) in the product is/are regulated and the extent to which these other  
5 regulatory requirements address, and provide adequate protections with respect to the same  
6 potential adverse impacts and potential exposure pathways, and adverse waste and end-of-life  
7 effects, that are under consideration as a basis for the product-chemical combination being  
8 listed as a Priority Product. If a product is regulated by another entity with respect to the same  
9 potential adverse impacts and potential exposure pathways, and potential adverse waste and  
10 end-of-life effects, the Department may list such a product-chemical combination as a Priority  
11 Product only if it determines that the listing would meaningfully enhance protection of public  
12 health and/or the environment with respect to the potential adverse impacts and/or exposure  
13 pathways that are the basis for the listing.

14 (3) Safer Alternatives. When deciding whether to list a product-chemical combination  
15 as a Priority Product, the Department may also consider whether there is a readily available  
16 safer alternative that is functionally acceptable, technically feasible, and economically feasible.

17  
18 NOTE: Authority cited: Sections 25252, 25253, and 58012, Health and Safety Code.  
19 Reference: Sections 25252, 25253, and 25257.1, Health and Safety Code.

### 20 21 **§ 69503.3. Adverse Impact and Exposure Factors.**

22 (a) Adverse Impacts.

23 (1) In evaluating a product-chemical combination for possible listing as a Priority  
24 Product, the Department shall evaluate the potential for the Candidate Chemical(s) to  
25 contribute to or cause adverse impacts, by considering one or more of the following factors for  
26 which information is reasonably available:

27 (A) The Candidate Chemical(s)' hazard trait(s) and/or environmental and/or toxicological  
28 endpoint(s);

29 ~~b.~~(B) The Candidate Chemical(s) of Concern's' aggregate effects;

30 ~~c.~~(C) The Candidate Chemical(s) of Concern's' cumulative effects with other chemicals  
31 with the same or similar hazard trait(s) and/or environmental or toxicological endpoint(s);

32 ~~d.~~(D) The Candidate Chemical(s) of Concern's physical-chemical hazards;

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

34 ~~f.~~(E) The Candidate Chemical(s) of Concern's' environmental fate;

35 ~~g.~~(F) The human populations, and/or aquatic, avian, or terrestrial animal or plant  
36 organisms for which the Candidate Chemical(s) of Concern has/have the ability/potential to  
37 contribute to or cause adverse impacts; and/or

38 ~~h.~~(G) The potential for the Candidate Chemical(s) of Concern's ability to degrade, form  
39 reaction products, or metabolize into another Candidate Chemical of Concern or a chemical  
40 that exhibits one or more hazard traits and/or environmental or toxicological endpoints.

1 ~~(2.—Based on reliable information, the)~~ The Department shall give special  
2 consideration to the ability of potential for the Candidate Chemical(s) of Concern in the product  
3 to contribute to or cause adverse impacts for the following:

4 ~~a.(A)~~ Sensitive subpopulations;

5 ~~b.(B)~~ Environmentally sensitive habitats;

6 ~~c.(C)~~ Endangered and threatened species listed by the California Department of Fish and  
7 ~~Game~~Wildlife; and

8 ~~d.(D)~~ Environments in California that have been designated as impaired by a California  
9 State or federal regulatory agency.

10 ~~(3.—Based)~~ The Department may also evaluate and consider, based on reliable  
11 information, the Department shall also give special consideration to the ability of the  
12 Chemical(s) of Concern in the product to contribute to or cause widespread adverse public  
13 health and/or environmental impacts associated with structurally or mechanistically similar  
14 chemicals for which there is a known toxicity profile.

15 ~~(Bb) Exposures. Exposures~~ In evaluating a product-chemical combination for possible  
16 listing as a Priority Product, the Department shall evaluate the potential for public and/or  
17 aquatic, avian, or terrestrial animal or plant organism exposure(s) to the Candidate  
18 Chemical(s) of Concern in the product, by considering one or more of the following factors for  
19 which information is reasonably available:

20 ~~(1.)~~ Market presence information for of the product, including all of the following:

21 ~~a.(A)~~ Statewide sales by volume;

22 ~~b.(B)~~ Statewide sales by number of units; and/or

23 ~~c.(C)~~ Intended product use(s), and types and age groups of targeted customer base(s).

24 ~~(2.—Reliable information regarding public and/)~~ The occurrence, or aquatic, avian, or  
25 terrestrial animal or plant organism potential occurrence, of exposures to the Candidate  
26 Chemical(s) of Concern in the product, and reliable information demonstrating the occurrence  
27 of exposures to the Chemical(s) of Concern in the product.

28 ~~(3.—Information concerning the)~~ The household and workplace presence of the  
29 product, and other products containing the same Candidate Chemical(s) of Concern that is/are  
30 the basis for considering the listing of the product-chemical combination as a Priority Product,  
31 including the number of such of products, how common their household presence is, the  
32 frequency of use, and the concentration of the chemical in those products.

33 ~~(4.—Public and/or aquatic, avian, or terrestrial animal or plant organism)~~ Potential  
34 exposures to the Candidate Chemical(s) of Concern in the product during the product's life  
35 cycle, considering:

36 ~~a.(A)~~ Manufacturing, use, storage, transportation, waste, and end-of-life management  
37 practices and the locations of these practices;

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

40 ~~i.(B)~~ Whether the product is manufactured or stored in, or transported through, California  
41 solely for use outside of California;

1 (C) Whether the product is placed into the stream of commerce in California solely for  
2 the manufacture of one or more of the products exempted from the definition of “consumer  
3 product” specified in Health and Safety Code section 25251;

4 (D) The following types of uses:

5 1. Household and recreational use;

6 ii2. Sensitive subpopulation potential use of, or exposure to, the product-at locations  
7 frequented by members of sensitive subpopulations; and/or

8 iii3. Workers, customers, clients, and members of the general public who use, or  
9 otherwise come in contact with, the product or releases from the product in ~~the home,~~  
10 workplacehomes, schools, workplaces, or other locations;

11 e.(E) Frequency, extent, level, and duration of potential exposure for each use scenario  
12 and end-of-life scenario;

13 d.(F) Containment of the Candidate Chemical(s) of Concern within the product, including  
14 potential accessibility to the Candidate Chemical(s) during the useful life of the product and the  
15 potential for releases of the Candidate Chemical(s) during the useful life and at the end-of-life;

16 e.(G) Engineering and administrative controls; and that reduce exposure concerns  
17 associated with the product; and/or

18 f.(H) The ability of potential for the Candidate Chemical(s) of Concern or its/their  
19 degradation products to be released into, migrate from, or distribute across environmental  
20 media, and the ability of potential for the Candidate Chemical(s) of Concern or its/their  
21 degradation products to accumulate and persist in biological and/or environmental  
22 compartments or systems.

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

25 (2) — Availability of Information. The Department shall consider the extent of information  
26 that is available to substantiate adverse impacts and exposures. All other factors being equal,  
27 a product for which there is a greater amount of information to substantiate adverse impacts  
28 and exposures, relative to other products being evaluated, shall be given a higher priority for  
29 purposes of this subsection.

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

36 (b) — Key Prioritization Factors. The Department shall, based on available information,  
37 give priority to products meeting both of the following criteria:

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

40 (2) — There is a significant ability for the public and/or aquatic, avian, or terrestrial animal  
41 or plant organisms to be exposed to the Chemical(s) of Concern in the product in quantities  
42 that would contribute to or cause adverse public health or environmental impacts, which may

1 ~~include consideration of how widely the product is distributed in commerce and how widely the~~  
2 ~~product is used by consumers.~~

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

6  
7 **§ 69503.3. — ~~Process to Evaluate Products Using the Prioritization Factors.~~**

8 (a) ~~— Adverse Impacts and Exposures and Availability of Information. The Department~~  
9 ~~shall begin the product evaluation and identification process, specified in section 69503.2, by~~  
10 ~~using available information to consider and evaluate the adverse impact and exposure factors~~  
11 ~~specified in section 69503.2(a)(1), along with the extent of available information as specified in~~  
12 ~~section 69503.2(a)(2).~~

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

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

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

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

34 **(f) 4. Priority Product Work Plan. ~~No later than January 1, 2014~~**

35 (a) Initial Work Plan. ~~Within one (1) year after the effective date of these regulations,~~  
36 ~~the Department shall issue a Priority Product Work Plan that, except as provided in section~~  
37 ~~69503.6, identifies and describes the product categories that the Department will evaluate to~~  
38 ~~identify products/product-chemical combinations to be added to the Priority Products list during~~  
39 ~~the next three (3) years: following the issuance of the work plan. The work plan must include a~~  
40 ~~general explanation of the decision to select the identified product categories for evaluation~~  
41 ~~during the life of the work plan.~~

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

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

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

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

9       ~~(2) (b) Subsequent Work Plans.~~ Subsequent work plans shall be issued by the  
10 Department no later than one (1) year before the three-year expiration date of the current work  
11 plan, and shall become effective upon expiration of the current work plan.

12       ~~(3) (c) Revisions to Work Plans.~~ The Department may revise an adopted work plan to  
13 ~~include one or more additional product categories if necessitated by either of the following:~~

14       ~~(1) The Department is legally required to take action on a particular chemical or product,~~  
15 ~~or both, prior to the expiration of the work plan; and/or~~

16       ~~(2) The Department grants a petition under section 69504.1.~~

17       ~~(d) Public Input.~~ Prior to issuing each work plan, the Department shall hold one or more  
18 public workshop(s) to provide an opportunity for oral comment.

19       ~~(4) (e) Public Notice.~~ The Department shall send to individuals on the electronic mailing  
20 list(s) that the Department establishes related to this chapter, and post on its website, a notice  
21 of the availability of each work plan, and each revised work plan.

22       ~~(5) This subsection does not apply to the adoption of the initial list of Priority Products.~~

23       ~~(g) Initial Priority Products List(s).~~ Prior to January 1, 2016, the Department may list a  
24 product as a Priority Product only if the product is being listed on the basis of one or more  
25 Chemical(s) of Concern in the product that meet both of the following criteria:

26       ~~(1) The chemical meets one or more of the criteria specified in subsection (a)(1) of~~  
27 ~~section 69502.2; and~~

28       ~~(2) The chemical meets one or more of the criteria specified in subsection (a)(2) of~~  
29 ~~section 69502.2.~~

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

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

33  
34 **§ 69503.45. Priority Products List.**

35       ~~(a)(1) Listing Process.~~

36       ~~(1) The Department shall use the procedures specified in this section and the~~  
37 ~~factors identification and prioritization criteria and process specified in sections 69503.2 and~~  
38 ~~69503.3 to identify and list products product-chemical combinations as Priority Products.~~

39       ~~(2) (2) The Priority Products list shall be established and updated through rulemaking~~  
40 ~~pursuant to the Administrative Procedure Act (commencing with Government Code section~~  
41 ~~11340). Except as provided in section 69503.6, the Department shall hold one or more public~~

1 workshop(s) to provide an opportunity for comment on candidate product-chemical  
2 combinations prior to issuing a proposed Priority Products list.

3 (b) List Contents. The Department shall specify in the proposed and final Priority  
4 Products lists the following for each listed product-chemical combination:

5 (A) The Chemical(s) of Concern and the hazard trait(s) (1)(A) A description of the  
6 product-chemical combination that is sufficient for a responsible entity to determine whether  
7 one or more of its products is a Priority Product.

8 (B) If the product-chemical combination is a component of one or more assembled  
9 products, a description of the known assembled product(s) in which the component is used  
10 shall be included.

11 (2)(A) The Candidate Chemical(s) that is/are the basis for the product being listed as a  
12 Priority Product and the hazard traits and/or environmental or toxicological endpoints  
13 associated with those chemicals.

14 (B)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 (B) For purposes of this chapter, a Candidate Chemical that is the  
21 basis for a product-chemical combination being listed as a Priority Product, as specified under  
22 paragraph (2)(A), is designated as a Chemical of Concern for that product. All references in  
23 this chapter to the Chemical(s) of Concern in an alternative product that is under consideration  
24 or is selected to replace a Priority Product mean the chemical(s) that is/are the Chemical(s) of  
25 Concern for that Priority Product.

26 (3) The due date for submission of the Preliminary AA Report required under article 5.  
27 The due date for the Preliminary AA. For each Report shall be 180 days after the date the  
28 product is listed highly on the final Priority Products list, unless the Department specifies  
29 otherwise in the Priority Products list.

30 (c) Complex Durable Products.

31 (1) For a complex durable product, the Department shall specify ~~not~~ may not list as  
32 Priority Products more than ten (10) components and/or homogeneous materials per contained  
33 in that product every in a three (3) years-year period.

34 3. (2) For purposes of ~~subparagraph 2.~~, "highly paragraph (1), "complex durable product"  
35 means a product that meets all of the following criteria:

36 a. (A) The product is assembled from 100 or more manufactured components;

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

40 c. (C) The product is typically not consumed, destroyed, or discarded after a single use.

41 4. ~~Subparagraph 2.~~ (3) Paragraph (1) does not apply to either of the following types  
42 of products:

- 1       a.(A) Products designed or intended primarily for children twelve (12) years of age or  
2 younger, as determined by information made available to consumers or as determined by  
3 whether the product is commonly recognized by consumers as being primarily intended for use  
4 by a child twelve (12) years of age or younger; or
- 5       b.(B) Products intended to be worn or placed on the human body, ~~dispersed as an aerosol~~  
6 ~~or vapor, or applied.~~
- 7       (d) Revisions to hard surfaces with the likelihood of runoff or volatilization.
- 8       (C) ~~— The due date for submission of the Preliminary AA Report, required under article 5.~~  
9 ~~The due date for the Preliminary AA Report shall be 180 days after the date the product is~~  
10 ~~listed on the final Priority Products list, unless the Department specifies a shorter or longer~~  
11 ~~period of time.~~
- 12       (b) ~~— The Department shall hold one or more public workshop(s) to provide an opportunity~~  
13 ~~for oral comment on candidate products being considered for the proposed Priority Products~~  
14 ~~list. The Department shall make the proposed Priority Products list available on its website, for~~  
15 ~~public review and comment, along with supporting documentation, including the Department's~~  
16 ~~rationale and a bibliography of the supporting information and information sources, prior to~~  
17 ~~finalizing the Priority Products list. The Department shall hold one or more public workshop(s)~~  
18 ~~to provide an opportunity for oral comment on the proposed list. The Department shall send to~~  
19 ~~individuals on the electronic mailing list(s) that the Department establishes related to this~~  
20 ~~chapter, and post on its website, a notice regarding the availability of the proposed list and~~  
21 ~~supporting documentation. The notice must include all of the following:~~
- 22       (1) ~~— The last day for the public to submit written comments on the proposed Priority~~  
23 ~~Products list. The last day for submission of public comments shall be no sooner than forty-~~  
24 ~~five (45) days from the date the availability of the proposed list is sent to individuals on the~~  
25 ~~electronic mailing list(s) that the Department establishes related to this chapter, and posted on~~  
26 ~~the Department's website;~~
- 27       (2) ~~— The method(s) for submitting comments to the Department; and~~
- 28       (3) ~~— The date, time, and location of the public workshop(s).~~
- 29       (c) ~~— Comments submitted under subsection (b) on the proposed Priority Products list~~  
30 ~~may also include recommendations, with supporting rationale and information, pertaining to an~~  
31 ~~alternatives analysis threshold for one or more proposed Priority Products. Comments~~  
32 ~~submitted under this subsection shall be considered by the Department in making its~~  
33 ~~determination under section 69503.5(c).~~
- 34       (d) ~~— The Department shall post the final Priority Products list on its website after review~~  
35 ~~of public comments. The final Priority Products list shall include the alternatives analysis~~  
36 ~~threshold for each Priority Product. The Department may respond to some or all public~~  
37 ~~comments received.~~
- 38       (e) ~~— The Department shall make the initial proposed list of Priority Products available for~~  
39 ~~public review and comment under subsection (b) no later than 180 days after the effective date~~  
40 ~~of these regulations. The initial list of Priority Products shall include no more than five (5)~~  
41 ~~Priority Products.~~

1 (f) — Priority Products List. The Department shall review and revise, as appropriate, the  
2 Priority Products list at least once every three (3) years, using the procedures specified in this  
3 section.

4 (g) — e) Priority Product Notifications to the Department. Each responsible entity for a  
5 product-chemical combination listed on the Priority Products list shall provide to the  
6 Department ~~one of a Priority Product Notification to the following notifications~~ Department within  
7 sixty (60) days after the product-chemical combination is listed as a Priority Product, or sixty  
8 (60) days after the product-chemical combination is first placed into the stream of commerce in  
9 California, whichever is later:

10 (1) — ~~Priority Product Notification, as specified, unless the Department specifies a later~~  
11 due date in section 69503.7;

12 (2) — ~~Alternatives Analysis Threshold Exemption Notification, as specified in section~~  
13 69503.6;

14 (3) — ~~the Priority Product Removal Notification and, if Products list. If applicable, a Priority~~  
15 Product Replacement Notification, as specified the responsible entity may concurrently submit  
16 a notification under section 69505.2 or section 69505.3, or such notification may be submitted  
17 at a later date as provided in section 69504-69505.2(b); or section 69505.3

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

19  
20 NOTE: Authority cited: Sections 25252, 25253, and 58012, Health and Safety Code.

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

22  
23 **§ 69503.5. — ~~Alternatives Analysis Threshold Exemption6.~~ Initial Priority Products**  
24 **List.**

25 (a) — ~~A responsible entity is exempt from The following provisions apply only to the~~  
26 requirements initial list of article 5 with respect to Priority Products:

27 (a) Scope of Candidate Chemicals. In the initial list of Priority Products, the Department  
28 may list a product that is listed as a Priority Product and that meets the only if one or more  
29 Candidate Chemical(s) that is/are the basis for listing the product meet one or more of the  
30 criteria for an alternatives analysis threshold exemption specified in subsection (b), if one of  
31 the responsible entities for the product submits a complete and timely Alternatives Analysis  
32 Threshold Exemption Notification to the Department under (1) of section 69503.6, unless  
33 69502.2 and one or more of the criteria specified in subsection (d) or (ea)(2) of section  
34 69503.6-69502.2. This subsection also applies. — to any revisions to Priority Products list  
35 adopted prior to January 1, 2016.

36 (b) — ~~To be eligible for an alternatives analysis threshold exemption, the concentration in~~  
37 the product, or in each component or homogeneous material identified under section  
38 69503.4(a)(2)(B), whichever is applicable, of each Chemical of Concern that is/are the basis  
39 for the product being listed as a Priority Product must not exceed the applicable alternatives  
40 analysis threshold specified under subsection (c). If subsection (d) applies, the total  
41 concentration of all Chemicals of Concern to which the alternatives analysis threshold applies  
42 must not exceed that threshold. This condition must be met as of the date of the applicable

1 ~~Priority Products listing, or the date the product is first placed into the stream of commerce in~~  
2 ~~California, whichever is later.~~

3 ~~(c) — The Department shall specify an alternatives analysis threshold for each Chemical of~~  
4 ~~Concern that is a basis for the product being listed as a Priority Product. In establishing an~~  
5 ~~alternatives analysis threshold, the Department shall, except as provided in paragraph (3), take~~  
6 ~~into consideration, based on available reliable information, the factors specified in paragraph~~  
7 ~~(1), if relevant, and paragraph (2):~~

8 ~~(1) — The ease or difficulty of removing from the product, or otherwise avoiding the~~  
9 ~~presence in the product of, the Chemical of Concern, if the source(s) of the Chemical of~~  
10 ~~Concern is/are one or more of the following:~~

11 ~~(A) — A naturally occurring contaminant in raw materials that are common and are~~  
12 ~~frequently used to manufacture the product;~~

13 ~~(B) — Air or water frequently used as a processing agent or an ingredient to manufacture~~  
14 ~~the product;~~

15 ~~(C) — A contaminant in recycled materials that are common and are frequently used to~~  
16 ~~manufacture the product; and/or~~

17 ~~(D) — A processing agent or intermediate frequently used to promote certain chemical or~~  
18 ~~physical changes during manufacturing, and the incidental retention of a residue is not desired~~  
19 ~~or intended.~~

20 ~~(2)(A) The minimum concentration of the Chemical of Concern that can be detected with~~  
21 ~~available laboratory analytical methodology.~~

22 ~~(B) — The Department shall not specify an alternatives analysis threshold that is lower~~  
23 ~~than the minimum detectable concentration for the Chemical of Concern.~~

24 ~~(3) — Notwithstanding paragraphs (1) and (2)(A), the Department may specify an~~  
25 ~~alternatives analysis threshold based on reliable information showing that the specified~~  
26 ~~threshold will protect public health and/or the environment. In doing so, the Department shall~~  
27 ~~consider the following factors that are relevant:~~

28 ~~(A) — The inherent potency of the Chemical of Concern;~~

29 ~~(B) — The ability of the Chemical of Concern to bioaccumulate;~~

30 ~~(C) — The unintended presence of the Chemical of Concern in organs, tissues, or fluids;~~

31 ~~(D) — The presence or absence of a threshold dose-response;~~

32 ~~(E) — The ability of the Chemical of Concern to contribute to or cause disproportionate~~  
33 ~~adverse impacts on sensitive subpopulations and/or environmentally sensitive habitats;~~

34 ~~(F) — The degree to which the severity of adverse impacts associated with the Chemical of~~  
35 ~~Concern is affected by aggregate exposures to the Chemical of Concern, if the Chemical of~~  
36 ~~Concern is found in multiple common and frequently used products;~~

37 ~~(G) — The degree to which the severity of adverse impacts associated with the Chemical of~~  
38 ~~Concern is affected by cumulative exposures to other Chemicals of Concern that are the basis~~  
39 ~~for the product being listed as a Priority Product and that exhibit the same hazard trait and/or~~  
40 ~~environmental or toxicological endpoint(s); and/or~~

41 ~~(H) — Any relevant regulatory action threshold established by a government agency.~~

1 (d) — If multiple Chemicals of Concern that exhibit the same hazard trait and/or  
2 environmental or toxicological endpoint(s) are identified as the basis for the product being  
3 listed as a Priority Product, the Department may specify a single alternatives analysis  
4 threshold under subsection (c) that applies to the total concentration in the Priority Product of  
5 all such Chemicals of Concern.

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

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

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

11  
12 **§ 69503.6. — Alternatives Analysis Threshold Exemption Notifications.**

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

17 (1) — The name of, and contact information for, the person submitting the Alternatives  
18 Analysis Threshold Exemption Notification.

19 (2) — The name of, and contact information for, the manufacturer and importer(s).

20 (3) — The name of, and contact information for, all responsible entities for the product, to  
21 the extent known.

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

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

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

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

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

38 (c) — The responsible entity shall submit to the Department a revised Alternative Analysis  
39 Threshold Exemption Notification, if any of the information listed in subsection (a) significantly  
40 changes. A revised Alternatives Analysis Threshold Exemption Notification must be submitted  
41 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 (b) Size of the List. The initial final list of Priority Products shall include no more than  
12 five (5) Priority Products. The list may identify more than one Chemical of Concern for each  
13 listed product.

14 (c) Initial Proposed Priority Products List. The Department shall make the initial  
15 proposed list of Priority Products available for public review and comment under section  
16 69503.5 no later than 180 days after the effective date of these regulations.

17 (d) Procedural Exceptions.

18 (1) Priority Product Work Plan. Section 69503.4 does not apply to the adoption of the  
19 initial list of Priority Products.

20 (2) Workshops. The provisions of section 69503.5(a)(2) requiring the Department to  
21 hold one or more public workshop(s) prior to issuing the proposed Priority Products list do not  
22 apply to the initial list of Priority Products.

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

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

26  
27 **§ 69503.7. Priority Product Notifications.**

28 (a) Notifications to the Department. Within sixty (60) days after a product-chemical  
29 combination is listed as a Priority Product, unless the Department specifies a later due date in  
30 the Priority Products list, each responsible entity for such a Priority Product shall notify the  
31 Department that its product-chemical combination is a Priority Product, unless the responsible  
32 entity has submitted an alternate notification to the Department under section 69503.4 (g)(2)  
33 through (g)(4). For a Priority Product that is first manufactured or first placed into the stream  
34 of commerce in California after the date of the product is listed as a Priority Product listing, the  
35 responsible entity shall provide the Priority Product, ~~or an alternate, notification~~ Notification  
36 within sixty (60) days after the product is first placed into the stream of commerce in California.  
37 The notification must include ~~all of the following:~~

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

40 (2) The type, brand name(s), and product name(s) of the Priority Product, and, if  
41 applicable, ~~information specifically identifying the~~ the product is a component(s) and/ of one or  
42 more assembled products, a description of the homogeneous material(s) and its/their

1 ~~associated known product(s) in which the component(s) identified under section~~  
2 ~~69503.4(a)(2)(B); and is used;~~

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

6 (b4) ~~If the Department determines applicable, an indication that a notification is being~~  
7 ~~submitted under section 69505.2 or section 69505.3 concurrently with the Priority Product~~  
8 ~~Notification, or will be submitted later as provided in section 69505.2 or section 69505.3.~~

9 (b) Non-Compliance. A responsible entity is not in compliance with subsection (a) if the  
10 notice responsible entity fails to fully and timely meet the requirements specified in subsection  
11 (a) have not been complied with for a particular product that is a Priority Product, the  
12 Department shall post this information on the Failure to Comply List under section 69501.2(d).

13  
14 NOTE: Authority cited: Sections 25252, 25253, and 58012, Health and Safety Code.  
15 Reference: Sections 25252 and 25253, Health and Safety Code.

#### 16 17 **Article 4. Petition Process for Identification and Prioritization of Chemicals and** 18 **Products**

#### 19 20 **§ 69504. Applicability and Petition Contents.**

21 (a) Petition Process. Except as provided in subsection (b), a person may petition the  
22 Department to add to or remove from the Candidate Chemicals of Concern list one or more  
23 chemicals, or to add to or remove from the lists specified in section 69502.2(a) the entirety of  
24 an existing chemicals list ~~to the lists specified in section 69502.2(a).~~ A person may also  
25 petition the Department to add to or remove from the Priority Products list a product, ~~or to~~  
26 ~~establish or revise an alternatives analysis threshold for a Chemical of Concern in a Priority~~  
27 ~~Product-chemical combination.~~ A petition must include ~~all of the following:~~

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

29 (A) The petitioner; and

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

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

34 (3) A description of the uses ~~and applications~~ of the chemical and/or product chemical  
35 combination;

36 (4) The basis for the petition, including an analysis of the ~~scientific~~ basis for the  
37 existence or absence of potential adverse public health impacts, potential exposures, and/or  
38 environmental impacts potential adverse waste and end-of-life effects associated with the  
39 chemical and/or product, ~~or for the establishment or revision of an alternatives analysis~~  
40 ~~threshold;~~ chemical combination;

41 (5) ~~Reliable information~~ Information supporting the petition; and

1 (6) The identity of any known manufacturers and importers of the chemical or product-  
2 chemical combination.

3 ~~(b)(b)~~ Limitations on Petitions.

4 (1) A person may not petition the Department to delist any chemical identified as a  
5 Candidate Chemical of Concern under section 69502.2(a), unless that chemical is no longer  
6 listed on any of the lists ~~identified~~specified in section 69502.2(a).

7 (2) A person may not petition the Department to remove an entire chemicals list from  
8 the lists specified in section 69502.2(a) until three (3) years after the effective date of these  
9 regulations.

10 (3) A person may not petition the Department to remove a product-chemical  
11 combination from the Priority Products list until three (3) years after the date the product-  
12 chemical combination was placed on the Priority Products list.

13 (c) Completeness Review. Within sixty (60) days after receiving a petition, the  
14 Department shall review the petition and shall designate the petition complete if it contains all  
15 of the items specified in subsection (a). If the Department determines that a petition is  
16 incomplete, the Department shall ~~notify~~provide notice to the petitioner of this determination and  
17 shall specify the basis for the determination. If the Department determines that a petition is  
18 complete, the Department shall ~~notify~~provide notice to the petitioner that it will conduct a merits  
19 review to determine whether to grant or deny the petition.

20  
21 NOTE: Authority cited: Sections 25252, 25253, and 58012, Health and Safety Code.

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

23  
24 **§ 69504.1. Merits Review of Petitions.**

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

32 (b) Substantive Review. The Department's merits review of each complete petition  
33 shall, to the extent applicable, be based on:

34 (1) The comprehensiveness of the information submitted that pertains to the factors  
35 specified in ~~sections~~section 69502.2(b) and/or section 69503.2, ~~as applicable;~~

36 (2) The quality of the information submitted; ~~and,~~

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

39 (A) The chemical ~~exhibits~~does or does not exhibit one or more hazard traits and/or  
40 environmental or toxicological endpoints; and

41 (B) An evaluation of the chemical and/or the product, based on the factors specified in  
42 ~~sections~~section 69502.2(b) and/or section 69503.2, as applicable, ~~indicates~~does or does not

1 indicate potential adverse public health and/or environmental impacts and potential exposures,  
2 and, if applicable, adverse waste and end-of-life effects.

3 (4) For a petition to remove a chemical from the Candidate Chemicals list, whether the  
4 chemical has changed status on any source list(s) that led to its inclusion on the Candidate  
5 Chemicals list.

6 (5) For a petition to remove an entire existing chemicals list from the lists specified in  
7 section 69502.2(a), whether the entity responsible for the underlying list still conducts its  
8 scientific assessments of chemicals in a manner that is substantially equivalent to, or as  
9 rigorous as, the manner in which it conducted its scientific assessments at the time of the initial  
10 adoption of these regulations.

11 (c) Supplemental Information Requests. The Department may request that the  
12 petitioner provide, within a specified timeframe, additional information to assist the merits  
13 review, ~~within a timeframe specified by the Department.~~

14 (d) Notice of Decision. After completing the merits review, the Department shall:

15 (1) ~~Prepare~~ provide a notice ~~to~~ to the petitioner of its decision to grant or deny the  
16 petition, ~~and that includes~~ a statement explaining the basis for the decision; ~~and~~

17 (2) ~~Notify the petitioner of the decision.~~

18  
19 NOTE: Authority cited: Sections 25252, 25253, and 58012, Health and Safety Code.

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

## 21 22 **Article 5. Alternatives Analysis**

### 23 24 **§ 69505. Guidance Materials.**

25 (a) Guidance Materials. Before finalizing the initial list of Priority Products ~~under section~~  
26 ~~69503.4,~~ the Department shall make available on its website guidance materials to assist  
27 persons in performing AAs in accordance with this article. The Department shall periodically  
28 revise and update the guidance materials.

29 (b) Sample Alternatives Analyses. The Department shall also post on its website  
30 examples of AAs that the Department is aware of, and that are available in the public domain  
31 at no cost and are supported by reliable information. The posting must indicate, for each AA,  
32 the name of the person or entity that prepared the AA.

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

### 36 37 **§ 69505.1. Alternatives Analysis: General Provisions.**

38 (a)(1) ~~All references in this article to "Priority Product" mean a product that has a been~~  
39 ~~listed on the Priority Products list under Article 3, or, if applicable, the component(s) and/or~~  
40 ~~homogeneous material(s) within a component in the product that are the focus of the AA. If~~  
41 ~~applicable, the AA must at a minimum include those component(s) and/or homogeneous~~  
42 ~~material(s) that is/are identified under section 69503.4(a)(2)(B). The responsible entity may~~

1 ~~elect to expand the focus of the AA to include additional components and/or homogeneous~~  
2 ~~materials or the entire product.~~

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

4 ~~(b) This article does not apply to either of the following:~~

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

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

11 ~~(c)(1) The requirements of this article applicable to a responsible entity may be fulfilled~~  
12 ~~entirely by the responsible entity, or entirely by a person acting on behalf of or in lieu of the~~  
13 ~~responsible entity. Alternatively, the responsible entity may choose to fulfill some requirements~~  
14 ~~themselves with other requirements being fulfilled by a person acting on behalf of or in lieu of~~  
15 ~~the responsible entity.~~

16 ~~(2)(a) Applicability. This article does not apply to a product for which the notification~~  
17 ~~requirements of section 69505.2 or section 69505.3 have been fully and timely met.~~

18 ~~(b) AA Requirements.~~

19 ~~(1) Except as otherwise provided in subsection (a) above and subsections (b), (f), (c) and~~  
20 ~~(g) and (d) of section 69505.2 (b) and (c), 4, a responsible entity for a product that contains one~~  
21 ~~or more Chemicals of Concern, that is/are the basis for inclusion of the product on the Priority~~  
22 ~~Product list, shall conduct an AA for the Priority Product, and shall comply with all applicable~~  
23 ~~requirements of this article.~~

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

27 ~~(A) Except as provided in subsection (d)(1), the c), a responsible entity shall submit the~~  
28 ~~Preliminary AA Report to the Department no later than 180 days after the date the product is~~  
29 ~~listed on the final Priority Products list posted on the Department’s website, unless the~~  
30 ~~Department specifies a different due date for the product in the Priority Products list under~~  
31 ~~section 69503.4(a)(2)(C).~~

32 ~~(B) Except as provided in subsection (d)(1), the c), a responsible entity shall submit the~~  
33 ~~Final AA Report no later than twelve (12) months after the date the Department issues a notice~~  
34 ~~of compliance for the Preliminary AA Report, unless the responsible entity requests, under~~  
35 ~~section 69505.5(k)(1), and the Department approves, under section 69505.6(a)(3), a longer~~  
36 ~~period of time an extended due date.~~

37 ~~(C) For a product that is first placed into the stream of commerce in California after the~~  
38 ~~date the product is listed on the Priority Products list, the due date for the Preliminary AA~~  
39 ~~Report shall be 180 days after the product is first placed into the stream of commerce in~~  
40 ~~California, unless the Department specifies a different due date in the Priority Products list.~~

41 ~~(d)(3) The requirements of this article applicable to a responsible entity may be fulfilled~~  
42 ~~entirely or in part by the responsible entity, and/or entirely or in part by a person acting on~~

1 behalf of or in the stead of the responsible entity. This paragraph does not apply to sections  
2 69505.2 and 69505.3.

3 (c) AA Report Due Date Extension.

4 (1) A responsible entity may request, and the Department may grant, a one-time  
5 extension of up to ninety (90) days to the submission deadline for ~~either the Preliminary or~~  
6 ~~Final AA Report, or both, or Alternate Process AA Work Plan~~ if the extension request is based  
7 on circumstances that could not reasonably be anticipated or controlled by the responsible  
8 entity. The extension request must be received at least sixty (60) days before the applicable  
9 due date.

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

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

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

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

16 (D) Information identifying and describing the product, and, if applicable, the  
17 component(s) and/or homogeneous material(s) and its/their associated component(s) subject  
18 to the AA requirement, including responsible entity's Priority Product, and the brand name(s)  
19 and product name(s) under which the product Priority Product is placed into the stream of  
20 commerce in California, and, if the Priority Product is a component of one or more assembled  
21 products, a description of the known product(s) in which the component is used;

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

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

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

27 (3) The Department shall approve or deny, ~~in whole or in part~~, the extension request, in  
28 whole or in part and ~~notify~~ provide notice to the person submitting the extension request of the  
29 decision, within thirty (30) days of receipt of the extension request. Failure by the Department  
30 to issue a decision within thirty (30) days does not constitute an approval of the extension  
31 request.

32 (e) ~~Each AA completed on and after the date that is two (2) years after the effective date~~  
33 ~~of these regulations shall be performed by, or under the responsible charge of, one or more~~  
34 ~~assessor(s) certified under article 8 for the appropriate product type or industry sector. Each~~  
35 ~~Preliminary and Final AA Report submitted on and after the date that is two (2) years after the~~  
36 ~~effective date of these regulations shall be prepared by, or under the responsible charge of,~~  
37 ~~one or more assessor(s) certified under article 8 for the appropriate product type or industry~~  
38 ~~sector.~~

39 (f) ~~A responsible entity may fulfill the requirements of subsection (c)(2) by submitting to~~  
40 ~~the Department a report for a previously completed AA for the Priority Product, if the~~  
41 ~~Department determines that the report is substantially equivalent to the Final AA Report~~

1 requirements of section 69505.5, and that the report contains sufficient information for the  
2 Department to identify regulatory response(s) under article 6.

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

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

9 (g) — ~~Chemical of Concern Removal Notification. If a responsible entity reformulates the~~  
10 ~~Priority Product to remove the Chemical(s) of Concern, that is/are the basis for the Priority~~  
11 ~~Product listing, without adding a substitute chemical, the responsible entity may submit a~~  
12 ~~Chemical of Concern Removal Notification to the Department in lieu of conducting an AA and~~  
13 ~~submitting an AA Report.~~

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

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

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

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

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

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

25 (E) — The intended uses, and targeted customer base(s), for the product and the  
26 reformulated product;

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

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

30 1. — Information explaining the rationale and the factors considered in selecting the  
31 reformulation; and

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

35 (h) — A responsible entity conducting an AA under this article (d) Consideration of  
36 Information and Public Comments.

37 (1) A responsible entity conducting an AA shall consider all relevant information made  
38 available on the Department's website, including any relevant public comments, and any  
39 additional information or technical assistance the Department may provide regarding  
40 alternatives analysis. The responsible entity shall summarize these efforts in the AA  
41 Report/Final AA Report or final Abridged AA Report, whichever is applicable.

1 (i) ~~—(2)~~ The Department shall post on its website a notice regarding the availability for  
2 public review and comment of each Preliminary AA Report, draft Abridged AA Report, and  
3 Alternate Process AA Work Plan submitted to the Department. The notice shall include the  
4 time period, not to exceed forty-five (45) days, during which the public may submit comments,  
5 and the method(s) for submitting comments. Any public comments on these documents must  
6 be submitted to the entity that submitted the document to the Department with a copy  
7 submitted simultaneously to the Department.

8 (e) Compliance Status. Notwithstanding any other provision of this chapter, failure of  
9 the Department to make a compliance determination for a ~~Preliminary or Final~~ an AA Report  
10 within the applicable timeframe specified in section 69505.68, or failure of the Director or the  
11 Department to respond to an appeal or Request for Review submitted under article 7 within  
12 sixty (60) days, shall not cause a ~~Preliminary or Final~~ an AA Report to be deemed compliant  
13 with this article.

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

17  
18 **§ 69505.2. Removal/Replacement Notifications in Lieu of Alternatives Analysis of,**

19 (a) Applicability.

20 (1)(A) The requirements of this article do not apply to a responsible entity's Priority  
21 Products ~~Product~~ if the manufacturer of the Priority Product submits one of the following  
22 notifications to the Department no later than the due date for submitting the Preliminary AA  
23 Report:

24 1. A Chemical Removal Intent and ~~Alternatives~~ /or Confirmation Notification that  
25 complies with subsections (b) and (c);

26 {2. A Product Removal Intent and/or Confirmation Notification that complies with  
27 subsections (b) and (d); or

28 3. A Product-Chemical Replacement Intent and/or Confirmation Notification that  
29 complies with subsections (b) and (e).

30 (B) If only a) { Chemical Removal, Product Removal, or Product-Chemical Replacement  
31 Intent Notification is submitted to the Department by the date specified in subparagraph (A),  
32 within ninety (90) days of the submission date, or by the due date for the Preliminary AA  
33 Report, whichever is later, the manufacturer shall submit one of the following to the  
34 Department:

35 1). A removal or replacement Confirmation Notification; or

36 2. A Preliminary AA Report, draft Abridged AA Report, or Alternate Process AA Work  
37 Plan.

38 (2)(A) If a Preliminary AA Report, draft Abridged AA Report, or Alternate Process AA Work  
39 Plan has already been submitted to the Department, the requirements of this article pertaining  
40 to performance of a second stage AA and submission of a Final AA Report, or submission of a  
41 final Abridged AA Report, do not apply if one of the notifications specified in paragraph (1)(A)

1 is submitted to the Department prior to the due date for submitting the Final AA Report or final  
2 Abridged AA Report, whichever is applicable.

3 (B) If only a Chemical Removal, Product Removal, or Product-Chemical Replacement  
4 Intent Notification is submitted to the Department by the date specified in subparagraph (A),  
5 the manufacturer shall submit a removal or replacement Confirmation Notification, or a Final  
6 AA Report or final Abridged AA Report, by the later of the following dates:

7 1. Ninety (90) days after the Intent Notification is submitted; or

8 2. The AA required to be performed under due date for the Final AA Report or final  
9 Abridged AA Report, whichever is applicable.

10 (3) A manufacturer is not in compliance with section 69505.1(b), if the manufacturer  
11 submits a notification under this section, in lieu of submitting the otherwise required AA  
12 Report(s), and that notification is not submitted by the applicable due date or does not fully  
13 meet the applicable content requirements specified in subsections (b) through (e).

14 (b) Content Requirements for Intent and Confirmation Notifications. Chemical Removal,  
15 Product Removal, and Product-Chemical Replacement Intent and Confirmation Notifications  
16 must include:

17 (1) The name of, and contact information for, the person submitting the notification.

18 (2) The name of, and contact information for, any known responsible entity(ies).

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

21 (4) The name of, and contact information for, all persons in California, other than the  
22 final purchaser or lessee, to whom the manufacturer directly sold the Priority Product within the  
23 prior twelve (12) months.

24 (5) Identification and location of the manufacturer's retail sales outlets where the  
25 manufacturer sold, supplied, or offered for sale the Priority Product in California, if applicable.

26 (6) Information identifying and describing the Priority Product and the reformulated  
27 product, if applicable, and the brand name(s) and labeling information under which the Priority  
28 Product and the reformulated product, if applicable, are/were placed into the stream of  
29 commerce in California, and, if the product is a component of one or more assembled  
30 products, a description of the known product(s) in which the component is used.

31 (7) The intended uses, and targeted customer base(s), for the Priority Product and the  
32 reformulated product, if applicable.

33 (8) The measures the manufacturer will take, or has taken, to:

34 (A) If applicable, provide information regarding the reformulated product to persons  
35 selling or distributing the Priority Product in California; and

36 (B) Cease fulfilling orders for the Priority Product from persons selling or distributing the  
37 Priority Product in California.

38 (9) For Chemical Removal Notifications and/or Product-Chemical Replacement  
39 Notifications, the Chemical(s) of Concern that will be, or have been, removed from the product,  
40 and, as applicable the following information:

41 (A) Information explaining the rationale and the factors considered in deciding to  
42 reformulate the product;

1 (B) Laboratory analytical testing methodology and quality control and assurance  
2 protocols used or that will be used to confirm that the Chemical(s) of Concern have been  
3 removed;

4 (C) Information demonstrating that the Chemical(s) of Concern has/have been removed  
5 from the product that was a Priority Product;

6 (D) The name of the replacement chemical(s), the concentration of each replacement  
7 chemical in the reformulated product, and the hazard traits and/or environmental or  
8 toxicological endpoints known to be associated with the replacement chemical(s);

9 (E) Laboratory analytical testing methodology and quality control assurance protocols  
10 used or that will be used to measure the concentration of the replacement chemical(s) in the  
11 product; and

12 (F) Information demonstrating that the replacement chemical(s) meet one of the  
13 following criteria:

14 1. The replacement chemical(s) is/are not on the list of Candidate Chemicals; or

15 2. The replacement chemical(s) is/are Candidate Chemical(s) that are already in use to  
16 manufacture the same product, in lieu of the Chemical(s) of Concern, by the same or a  
17 different responsible entity. For purposes of this subsection, "same product" means a product  
18 that has the same product description as, or similar product description to, the Priority Product;  
19 has the same intended use(s) and targeted customer base(s) as the Priority Product; and  
20 fulfills the functional, performance, and legal requirements of the Priority Product.

21 (10) The certification statement specified in subsection (c)(2), (d) or (e), as applicable.

22 (c) Chemical Removal Notification Certification Statements. Chemical Removal Intent  
23 and Confirmation Notifications must include whichever of the following certification statements  
24 is applicable:

25 (1) Chemical Removal Intent Notifications must include a statement certifying that the  
26 manufacturer intends to do all of the following within ninety (90) days of the date the  
27 notification is submitted to the Department:

28 (A) Remove the Chemical(s) of Concern from the Priority Product without the use of one  
29 or more replacement chemicals or otherwise adding other chemicals to the product;

30 (B) Provide information regarding the reformulated product to persons selling or  
31 distributing the Priority Product in California;

32 (C) Cease fulfilling orders for the Priority Product from persons selling or distributing the  
33 Priority Product in California; and

34 (D) Submit a Chemical Removal Confirmation Notification to the Department for the  
35 Priority Product.

36 (2) Chemical Removal Confirmation Notifications must include a statement certifying  
37 that:

38 (A) The Chemical(s) of Concern has/have been removed from the product that was a  
39 Priority Product without the use of one or more replacement chemicals or otherwise adding  
40 other chemicals to the product;

41 (B) Information regarding the reformulated product has been provided to persons selling  
42 or distributing the Priority Product in California; and

1 (C) The manufacturer has ceased fulfilling orders for the Priority Product from persons  
2 selling or distributing the Priority Product in California and will not resume doing so.

3 (d) Product Removal Notification Certification Statements. Product Removal Intent and  
4 Confirmation Notifications must include whichever of the following certification statements is  
5 applicable:

6 (1) Product Removal Intent Notifications must include a statement certifying that the  
7 manufacturer intends to do both of the following within ninety (90) days of the date the  
8 notification is submitted to the Department:

9 (A) Cease fulfilling orders for the Priority Product from persons selling or distributing the  
10 Priority Product in California; and

11 (B) Submit a Product Removal Confirmation Notification to the Department for the  
12 product.

13 (2) Product Removal Confirmation Notifications must include a statement certifying that  
14 the manufacturer has ceased, and will not resume, fulfilling orders for the Priority Product from  
15 persons selling or distributing the Priority Product in California.

16 (e) Product-Chemical Replacement Notification Certification Statements. Product-  
17 Chemical Replacement Intent and Confirmation Notifications must include whichever of the  
18 following certification statements is applicable:

19 (1) Product-Chemical Replacement Intent Notifications must include a statement  
20 certifying that within ninety (90) days of submission of the notification to the Department, the  
21 manufacturer intends to:

22 (A) Remove the Chemical(s) of Concern from the Priority Product;

23 (B) Provide information regarding the reformulated product to persons selling or  
24 distributing the Priority Product on California;

25 (C) Cease fulfilling orders for the Priority Product from persons selling or distributing the  
26 Priority Product in California; and

27 (D) Submit a Product-Chemical Replacement Confirmation Notification to the  
28 Department for the Priority Product.

29 (2) Product-Chemical Replacement Confirmation Notifications must include a statement  
30 certifying that:

31 (A) The Chemical(s) of Concern has/have been removed from the product that was a  
32 Priority Product;

33 (B) The replacement chemical(s) meet the criteria specified in subparagraph 1. or  
34 subparagraph 2. of subsection (b)(9)(F);

35 (C) Information regarding the reformulated product has been provided to persons selling  
36 or distributing the Priority Product on California; and

37 (D) The manufacturer has ceased fulfilling orders for the Priority Product from persons  
38 selling or distributing the Priority Product in California and will not resume doing so.

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

1 **§ 69505.3. Alternatives Analysis Threshold Notification in Lieu of Alternatives**  
2 **Analysis.**

3 (a) Notification Requirements. This article does not apply to a responsible entity's  
4 Priority Product for which the manufacturer submits an Alternatives Analysis Threshold  
5 Notification to the Department concurrently with the Priority Product Notification, or by the due  
6 date for the Preliminary AA Report for the Priority Product. Each notification must include:

7 (1) The name of, and contact information for, the person submitting the notification;

8 (2) The name of, and contact information for, any known responsible entity(ies);

9 (3) If different from paragraphs (1) and (2), the name of, and contact information for, the  
10 manufacturer(s) and importer(s) of the Priority Product;

11 (4) A statement certifying that the Chemical(s) of Concern are present in the  
12 manufacturer's Priority Product only as contaminants and the concentration of each Chemical  
13 of Concern does not exceed the Alternatives Analysis Threshold for that chemical;

14 (5) Identification of the PQL for each Chemical of Concern in the Priority Product, and  
15 the information and method used to determine the PQL;

16 (6) The source of the Chemical(s) of Concern in the Priority Product;

17 (7) Information identifying and describing the Priority Product, the brand name(s) and  
18 labeling information under which the Priority Product is placed into the stream of commerce in  
19 California, and, if the Priority Product is a component of one or more assembled products, a  
20 description of the known product(s) in which the component is used;

21 (8) Laboratory analytical testing methodology and quality control and assurance  
22 protocols used to measure each Chemical of Concern in the Priority Product, and identification  
23 of the testing laboratory; and

24 (9) A demonstration and certification that the manufacturer meets and will continue to  
25 meet the criteria and conditions that are the basis for the exemption in this section.

26 (b) Burden of Proof. The manufacturer bears the burden of proof to demonstrate that  
27 the concentration of the Chemical(s) of Concern in its Priority Product does not exceed the  
28 applicable PQL.

29 (c) Notification Revisions. If any of the information listed in subsection (a) changes  
30 significantly, the manufacturer shall submit to the Department a revised Alternatives Analysis  
31 Threshold Notification within thirty (30) days of the change.

32 (d) Change in Product's Exemption Status. If the Priority Product no longer meets the  
33 criteria for an Alternatives Analysis Threshold exemption, the manufacturer shall notify the  
34 Department of this change within thirty (30) days of the change, and shall submit to the  
35 Department a Preliminary AA Report or an applicable Intent and/or Confirmation Notification  
36 under section 69505.2 within 180 days of the change.

37 (e) Determination of Exemption Eligibility. The exemption in subsection (a) does not  
38 apply if the Department notifies the person who submitted the Alternatives Analysis Threshold  
39 Notification that the information contained in the notification is inaccurate or inadequate to  
40 support an Alternatives Analysis Threshold exemption.

41

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

3  
4 **§ 69505.4. Alternatives Analysis Process and Options.**

5 (a) AA Stages.

6 (1) An AA must be conducted in two stages, as specified in sections 69505.3 and  
7 69505.4.

8 (2) The responsible entity shall initially complete the first stage of the AA, and submit a  
9 Preliminary AA Report that complies with sections 69505.1(e)(3b)(2)(A) and 69505.57.

10 (3) The responsible entity shall next complete the second stage of the AA, and submit a  
11 Final AA Report that complies with sections 69505.1(e)(3b)(2)(B) and 69505.57.

12 (b) Abridged AA Reports. After completion of completing the first four (4) steps of the  
13 first stage of the AA, under pursuant to subsections (b)(1a) through (b)(4d) of section  
14 60505.369505.5, a responsible entity that determines a functionally acceptable and technically  
15 feasible alternative is not available or feasible may prepare and submit a draft and final  
16 Abridged AA Report Reports, in lieu of the Preliminary and Final AA Reports, if all of the  
17 following requirements are met:

18 (1) The responsible entity summarizes, in the Abridged AA Report, the first stage AA  
19 findings in conformance compliance with the applicable requirements of section 69505.57;

20 (2) The responsible entity identifies the factors relevant for comparison of the Priority  
21 Product and the alternatives, under consideration as specified in section 69505.46(a), and  
22 summarizes, in the Abridged AA Report, its findings with respect to section 69505.46(a) in  
23 conformance compliance with the applicable requirements of section 69505.57;

24 (3) The responsible entity submits a draft Abridged AA Report to the Department by  
25 the due date specified in section 69505.1(e)(3b)(2)(A), and submits a final Abridged AA Report  
26 by the due date specified by the Department under section 69505.8(b)(4); and

27 (4) The responsible entity specifies in the implementation plan included in the draft and  
28 final Abridged AA Report the milestones and dates for implementation of proposed regulatory  
29 responses, which shall, at a minimum, include the regulatory responses required  
30 under section sections 69506.93 and 69506.8.

31 (c) Alternate Process AA.

32 (1) A responsible entity may use an AA process that differs from the process specified  
33 in sections 69505.35 and 69505.46, if all of the following requirements are met:

34 (1A) The responsible entity's alternate process provides the information needed to  
35 prepare a Final AA Report that substantially meets the requirements of complies with  
36 section 69505.57.

37 (2B) The responsible entity's alternate process compares the Priority Product and the  
38 alternatives under consideration using, at a minimum, the same factors and, where when  
39 applicable, associated exposure pathways and life cycle segments specified in sections  
40 69505.35 and 69505.46.

41 (3C) The responsible entity submits a work plan an Alternate Process AA Work Plan to the  
42 Department with sufficient information to demonstrate that the alternate process will meet the

1 ~~requirements of paragraphs (1) complies with subparagraphs (A) and (2B), and sufficient~~  
2 information for the Department to specify an appropriate due date for submittal of the Final AA  
3 Report.

4 ~~(A)1. The Alternate Process AA Work Plan shall include the information specified in~~  
5 ~~subsections (c), (d), and (e) of section 69505.7.~~

6 ~~2. If the work plan~~Alternate Process AA Work Plan includes information for which trade  
7 secret protection is claimed, the responsible entity shall also submit a redacted copy of the  
8 work plan, ~~which shall exclude the~~ that masks that information ~~for which trade secret protection~~  
9 ~~is claimed.~~

10 ~~(B)3. The work plan~~Alternate Process AA Work Plan shall be accompanied by an  
11 executive summary organized in conformance with the organization of the work plan that is  
12 sufficient to convey to the public a general understanding of the work plan.

13 ~~1. The executive summary must be organized in conformance with the organization of~~  
14 ~~the work plan. The responsible entity may not include in the executive summary, and that~~  
15 ~~masks any information for which trade secret protection is claimed.~~

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

21 ~~(C)1.D) The work plan must be~~Alternate Process AA Work Plan is submitted to the  
22 Department no later than sixty (60) days after the product is included on the Priority Products  
23 list. ~~Upon receipt of a work plan under this subsection, the Department shall follow the steps~~  
24 ~~specified for the review of Preliminary AA Reports in section 69505.6(a).~~

25 ~~2. For a product that is first placed into the stream of commerce in California after the~~  
26 date the product is included on the Priority Products list, the ~~due date for the work~~  
27 ~~plan~~Alternate Process AA Work Plan shall be due sixty (60) days after the productPriority  
28 Product is first placed into the stream of commerce in California.

29 ~~(D)E)1. The responsible entity timely submits a Final AA Report to the Department that~~  
30 ~~substantially complies with section 69505.7.~~

31 ~~2. The due date for the Final AA Report shall be~~ sixteen (18) months after the date  
32 the Department issues a notice of compliance for the work planAlternate Process AA Work  
33 Plan, unless the responsible entity requests, and receives Department approval of an  
34 extended due date using the procedures specified for Preliminary AA Reports in section  
35 69505.7(k)(1)(B), or the Department otherwise approves an extended due date under section  
36 69505.5(k)(1), and the Department approves,8(b)(4)(A). If the Department approves an  
37 extended due date, the responsible entity shall provide a yearly progress report until the Final  
38 AA Report is submitted. Each progress report must provide all of the information specified in  
39 subparagraphs 1. through 6. of section 69505.7(k)(1)(A).

40 ~~(2) If the Alternate Process AA Work Plan is disapproved by the Department under~~  
41 ~~section 69505.6(a)8(b)(3), a longer period of time. The additional time shall not exceed thirty~~  
42 ~~(30) months~~ the responsible entity shall submit a Preliminary AA Report to the Department

1 ~~within 180 days after the Department issues a~~ notice of compliance for the work plan.  
2 ~~disapproval.~~

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

6 ~~(d)(1) A responsible entity may select a different alternative(d) Previously Completed~~  
7 ~~AA. A responsible entity may comply with section 69505.1(b) by submitting to the~~  
8 ~~Department a report for a previously completed AA for the Priority Product, if the Department~~  
9 ~~determines that the report is substantially equivalent to the Final AA Report requirements of~~  
10 ~~section 69505.7 and contains sufficient information for the Department to determine any~~  
11 ~~necessary regulatory response(s) under article 6. The previously completed AA may be either~~  
12 ~~an AA conducted or obtained by the responsible entity or a publicly available AA.~~

13 (1) ~~A responsible entity submitting a report under this subsection shall submit the report~~  
14 ~~no later than the deadline for submitting a Preliminary AA Report, except that a one-time~~  
15 ~~extension may be requested under section 69505.1(c).~~

16 (2) ~~A responsible entity submitting an existing report under this subsection may~~  
17 ~~supplement the report with additional information to render the report substantially equivalent~~  
18 ~~to the Final AA Report requirements of section 69505.7.~~

19 (e) ~~Revised Alternative Selection Decision.~~

20 (1) ~~If after submitting the Final AA Report, the responsible entity selects one or more~~  
21 ~~alternatives that differ from the ~~one~~alternative(s) identified as the selected alternative(s) in the~~  
22 ~~Final AA Report-submitted to, the Department, if both of the following requirements are met:~~

23 (A) ~~The responsible entity shall submit a revised Final AA Report that identifies and~~  
24 ~~explains to the Department at least sixty (60) days prior to placing the newly selected~~  
25 ~~alternative product(s) into the stream of commerce in California. The revised Final AA Report~~  
26 ~~must explain the differences in the information from the original Final AA Report to the revised~~  
27 ~~Final AA Report. The responsible entity shall, identify the information used to support the~~  
28 ~~revisions to the Final AA Report.~~

29 (B) ~~The, and describe the rationale for selecting the different alternative(s). The~~  
30 ~~Department shall review and make a compliance determination with respect to the revised~~  
31 ~~Final AA Report must be submitted to the Department at least sixty (60) days prior to placing~~  
32 ~~the selected alternative product into the stream of commerce in California. in accordance with~~  
33 ~~the procedures and criteria set forth in section 69505.8.~~

34 (2) Paragraph (1) also applies if ~~the~~:

35 (A) ~~The selection decision in the original Final AA Report was to retain the Priority~~  
36 ~~Product, and the responsible entity later decides to select an alternative to replace the Priority~~  
37 ~~Product.; or~~

38

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

41

42 ~~§ 69505.3. Alternatives Analysis: First Stage.~~

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

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

4 (1) Step 1, Identification of Product Requirements and Function of Chemical(s) of  
5 Concern.

6 (A) The responsible entity shall identify the function, performance, and legal  
7 requirements associated with the Priority Product that must be met by the alternatives being  
8 considered.

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

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

14 2. If the responsible entity determines that neither the Chemical(s) of Concern nor  
15 substitute chemical(s) is/are necessary to meet the Priority Product’s requirements identified  
16 under subparagraph (A), the responsible entity shall evaluate as one of the alternatives to the  
17 Priority Product the removal of the Chemical(s) of Concern from the Priority Product without  
18 the addition of substitute chemical(s).

19 (2) Step 2, Identification of Alternatives.

20 (A)1. In addition to any alternative identified under paragraph (1)(C)2., the responsible  
21 entity shall identify alternatives that meet the definition of “alternative” under section  
22 69501.1(a)(11) and meet the requirements identified under paragraph (1)(A) for the Priority  
23 Product, and that eliminate or reduce the concentration of the Chemical(s) of Concern in the  
24 Priority Product and/or reduce or restrict exposures to the Chemical(s) of Concern in the  
25 Priority Product.

26 2. The responsible entity shall research available information, including information  
27 posted on the Department’s website under section 69505(b), that may identify existing viable  
28 alternatives for consideration in the AA. The responsible entity shall consider any such  
29 identified alternatives in the AA.

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

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

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

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

- 38 1. Adverse public health impacts;
- 39 2. Adverse environmental impacts;
- 40 3. Environmental fate;
- 41 4. Physical chemical hazards; and
- 42 5. Physicochemical properties;

1 ~~(B) — Compare each of the alternative chemicals being considered with the Chemical(s) of~~  
2 ~~Concern in the Priority Product, using the information collected and evaluated under~~  
3 ~~subparagraph (A); and~~

4 ~~(C) — Eliminate from further consideration in the AA any alternative chemical(s) that the~~  
5 ~~responsible entity determines poses equal or greater adverse public health and/or~~  
6 ~~environmental impacts than the Chemical(s) of Concern.~~

7 ~~(4) — Step 4, Consideration of Additional Information.~~

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

11 ~~(5) — Step 5, Identification of Next Steps.~~

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

15 ~~(B) — The responsible entity shall prepare and submit to the Department a Preliminary AA~~  
16 ~~Report as specified under section 69505.5.~~

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

20  
21 ~~**§ 69505.4. — Alternatives Analysis: Second Stage.**~~

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

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

24 ~~(1)(A) A factor listed in paragraph (2)(A) in conjunction, where applicable, with an~~  
25 ~~associated exposure pathway and life cycle segment is relevant if:~~

26 ~~1. — It makes a demonstrable contribution to one or more adverse public health,~~  
27 ~~environmental, waste and end-of-life, and/or materials and resource consumption impacts of~~  
28 ~~the Priority Product and/or one or more of the alternatives under consideration; and~~

29 ~~2. — There is a demonstrable difference in the factor's contribution to such impact(s)~~  
30 ~~between two or more of the alternatives being considered.~~

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

33 ~~(2) — The responsible entity shall collect and use available quantitative information and~~  
34 ~~analysis tools, supplemented by available qualitative information and analysis tools, to identify~~  
35 ~~the factors listed in subparagraph (A) and, where applicable, the associated exposure~~  
36 ~~pathways and life cycle segments that are relevant for the comparison of the Priority Product~~  
37 ~~and the alternatives still under consideration after completion of the first AA stage as specified~~  
38 ~~in section 69505.3. The factors identified in subparagraphs (B) and (C) shall be considered~~  
39 ~~relevant for all comparisons of the Priority Product and the alternatives.~~

40 ~~(A) — Multimedia life cycle impacts and chemical hazards for chemical ingredients known~~  
41 ~~to be in the Priority Product and the alternatives being considered based on available~~  
42 ~~information on:~~

- 1       1. ~~Adverse environmental impacts;~~
- 2       2. ~~Adverse public health impacts;~~
- 3       3. ~~Adverse waste and end-of-life impacts;~~
- 4       4. ~~Environmental fate;~~
- 5       5. ~~Materials and resource consumption impacts;~~
- 6       6. ~~Physical chemical hazards; and~~
- 7       7. ~~Physicochemical properties.~~
- 8       (B) ~~Product function and performance, meaning the principal use(s) or application(s) of~~
- 9       ~~a product by a consumer, as intended by the manufacturer, including function and~~
- 10       ~~performance attributes, and legal requirements. This evaluation shall include, at a minimum,~~
- 11       ~~all of the following:~~
- 12       1. ~~Useful life of the Priority Product, and that of the alternatives being considered;~~
- 13       2. ~~Comparison of function and performance for each alternative relative to the Priority~~
- 14       ~~Product and each of the other alternatives being considered, and identification of the source~~
- 15       ~~and basis for the function and performance metrics used; and~~
- 16       3. ~~A determination of whether a “technically and economically feasible alternative”~~
- 17       ~~exists.~~
- 18       (C) ~~Economic impacts. The responsible entity shall evaluate and compare the economic~~
- 19       ~~impacts of the Priority Product and the alternatives. If the comparison of economic impacts~~
- 20       ~~leads to a determination later decides to retain the Priority Product, then the responsible entity~~
- 21       ~~shall take into account all projected direct and indirect cost impacts during the life cycle of the~~
- 22       ~~product and the alternatives being considered. A cost impact is an increase or decrease in~~
- 23       ~~one or more of the following:~~
- 24       1. ~~Capital;~~
- 25       2. ~~Consumer costs associated with the purchase or lease and use of the product;~~
- 26       3. ~~Government agency, public, and/or business costs associated with the product;~~
- 27       4. ~~Jobs or businesses;~~
- 28       5. ~~Manufacturing costs;~~
- 29       6. ~~Marketing costs;~~
- 30       7. ~~Materials and resource consumption costs; and/or~~
- 31       8. ~~Waste and end-of-life management costs.~~
- 32       (3) ~~The responsible entity’s identification of relevant exposure pathways shall consider~~
- 33       ~~both of the following:~~
- 34       (A) ~~Chemical quantity information:~~
- 35       1. ~~Quantities of the Chemical(s) of Concern or alternative chemical(s) necessary to~~
- 36       ~~manufacture the Priority Product and each alternative being considered; and~~
- 37       2. ~~Estimated volume and/or mass of the Chemical(s) of Concern or substitute~~
- 38       ~~chemical(s) that is/are or would be placed into the stream of commerce in California as a result~~
- 39       ~~of the Priority Product and each alternative being considered.~~
- 40       (B) ~~Exposure factors specified in subsection (a)(1)(B) of section 69503.2.~~
- 41       (b) ~~Step 2, Comparison of the Priority Product and Alternatives.~~

1       ~~The responsible entity shall use available quantitative information and analyses,~~  
2 ~~supplemented by available qualitative information and analyses, to evaluate and compare the~~  
3 ~~Priority Product and each of the alternatives under consideration with respect to each relevant~~  
4 ~~factor and, where applicable, associated exposure pathways and life cycle segments identified~~  
5 ~~under subsection (a). The responsible entity shall compare each alternative with the Priority~~  
6 ~~Product and with each of the other alternatives being considered. The responsible entity shall~~  
7 ~~identify and/or document, as appropriate, all of the following information:~~

8       ~~(1) Quantitative metrics, where available and appropriate, for each of the relevant~~  
9 ~~factors identified under subsection (a)(2);~~

10       ~~(2) Qualitative metrics for any relevant factors for which quantitative metrics are not~~  
11 ~~available or appropriate;~~

12       ~~(3) Available data for each metric for the Priority Product and each alternative being~~  
13 ~~considered;~~

14       ~~(4) Any absent or conflicting data regarding a relevant factor, and either or both of the~~  
15 ~~following, as appropriate:~~

16       ~~(A) Available data that is most protective of public health and the environment, unless~~  
17 ~~there are sound methodological reasons for rejecting such data; and/or~~

18       ~~(B) A value for the metric, using a method for dealing with data uncertainty due to~~  
19 ~~absent or missing data that has been adopted by an authoritative organization, as defined in~~  
20 ~~section 69401.2(b), or generally accepted in peer reviewed literature;~~

21       ~~(5) A description of the performance of the Priority Product and each alternative, with~~  
22 ~~respect to each of the relevant factors;~~

23       ~~(6) Appropriate qualitative and/or quantitative relative weights for the relevant factors,~~  
24 ~~and the rationale for the assignment of the relative weights;~~

25       ~~(7) An evaluation of the overall performance of each alternative as compared to the~~  
26 ~~Priority Product and the other alternatives, including discussion of the impact of the weight~~  
27 ~~placed upon the relevant factors, the rationale for choosing the particular method for~~  
28 ~~determining the overall evaluation, and the sensitivity of the comparative evaluation to data~~  
29 ~~uncertainty; and~~

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

33       ~~(c) Step 3, Alternative Selection Decision.~~

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

38       ~~(d) Step 4, Consideration of Additional Information.~~

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

42       ~~(e) Step 5, Identification of Next Steps.~~

1 (1) ~~The responsible entity shall prepare a Final AA report that contains an~~  
2 ~~implementation schedule for implementing the in lieu of a previously selected alternative, if~~  
3 ~~any, and/or proposed regulatory responses, if any. product.~~

4 (23) ~~The responsible entity shall prepare and submit to the Department a requirements of~~  
5 ~~this subsection only apply for three (3) years after the date the original Final AA Report is~~  
6 ~~approved by the Department.~~

7 (f) ~~Reformulation. Except as specified under provided in section 69505.5-2, if prior to~~  
8 ~~submitting the Final AA Report for a Priority Product the responsible entity removes, or~~  
9 ~~reduces the concentration of, the Chemical of Concern(s) and uses one or more replacement~~  
10 ~~Candidate Chemical(s), the Alternatives Analysis evaluation and comparison shall include~~  
11 ~~consideration of both the Priority Product and the reformulated product.~~

12  
13 NOTE: Authority cited: Sections 25253 and 58012, Health and Safety Code. Reference:  
14 Sections 25252, 25253, and 25257, Health and Safety Code.

15  
16 **§ 69505.5. Alternatives Analysis Reports: First Stage.**

17 The first stage of the AA shall include the five (5) steps described below:

18 (a) Step 1, Identification of Product Requirements and Function(s) of Chemical(s) of  
19 Concern.

20 (1) The responsible entity shall identify the functional, performance, and legal  
21 requirements of the Priority Product that must also be met by the alternatives under  
22 consideration.

23 (2) The responsible entity shall identify the role(s), if any, of the Chemical(s) of Concern  
24 in meeting the Priority Product's requirements identified under paragraph (1).

25 (3)(A) The responsible entity shall determine if the Chemical(s) of Concern or alternative  
26 replacement chemical(s) is/are necessary to meet the Priority Product's requirements identified  
27 under paragraph (1).

28 (B) If the responsible entity determines that neither the Chemical(s) of Concern nor  
29 alternative replacement chemical(s) is/are necessary to meet the Priority Product's  
30 requirements identified under paragraph (1), the responsible entity shall evaluate removal of  
31 the Chemical(s) of Concern from the Priority Product without the use of any replacement  
32 chemical(s) as one of the alternatives to the Priority Product. Alternatively, the responsible  
33 entity may submit Chemical Removal Intent and/or Confirmation Notifications to the  
34 Department in lieu of completing the Alternatives Analysis and submitting the required AA  
35 Reports.

36 (b) Step 2, Identification of Alternatives.

37 (1)(A) In addition to any alternative identified under subsection (a)(3)(B), the responsible  
38 entity shall identify and consider alternatives that meet the definition of "alternative" under  
39 section 69501.1 and meet the Priority Product's requirements identified under subsection  
40 (a)(1).

41 (B) The responsible entity shall research and evaluate available information that  
42 identifies existing possibly viable alternatives for consideration in the AA. This research and

1 evaluation shall include, but is not limited to, information posted on the Department's website.  
2 The responsible entity shall consider any identified alternative in the AA, or explain in the AA  
3 Report why such an alternative is not viable for consideration.

4 (2) Alternatives that do not involve the use of one or more replacement chemicals, or  
5 otherwise adding chemicals to the product, do not require compliance with subsection (c).

6 (c) Step 3, Initial Evaluation and Screening of Alternative Replacement Chemicals.

7 (1) For those alternatives under consideration that involve removing or reducing the  
8 concentration of the Chemical(s) of Concern and using one or more alternative replacement  
9 chemicals, or otherwise adding chemicals to the product, the responsible entity shall:

10 (A) Use available information on hazard traits and environmental and toxicological  
11 endpoints and any other relevant information to identify the following for each alternative  
12 replacement chemical under consideration:

13 1. Adverse environmental impacts;

14 2. Adverse public health impacts;

15 3. Environmental fate;

16 4. Physical chemical hazards; and

17 5. Physicochemical properties.

18 (B) Compare each of the alternative replacement chemicals under consideration with  
19 the Chemical(s) of Concern in the Priority Product, using the information collected and  
20 evaluated under subparagraph (A).

21 (2) The responsible entity may eliminate from further consideration in the AA any  
22 alternative replacement chemical(s) that it determines has/have the potential to pose adverse  
23 impacts equal to or greater than those posed by the Chemical(s) of Concern.

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

25 In the first stage of the AA, the responsible entity may consider pertinent factors and  
26 information not specifically identified in this section. This may include, but is not limited to,  
27 consideration of the factors and information specified in section 69505.6. A responsible entity  
28 may eliminate an alternative from further consideration based on the additional factors and  
29 information as long as the reason for its elimination is explained in the Preliminary AA Report  
30 and there are alternatives remaining to be evaluated in the second AA stage.

31 (e) Step 5, Preliminary AA Report Preparation.

32 (1) The responsible entity shall prepare, for inclusion in the Preliminary AA Report, a  
33 work plan and proposed implementation schedule for completion of the second AA stage and  
34 preparation and submittal of the Final AA Report.

35 (2) The responsible entity shall prepare and submit to the Department a Preliminary AA  
36 Report as specified in section 69505.7.

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 **§ 69505.6. Alternatives Analysis: Second Stage.**

1 After receiving approval of the Preliminary AA Report from the Department, the responsible  
2 entity shall compare the Priority Product with the alternatives still under consideration. The  
3 second stage of the AA shall include the five (5) steps described below:

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

5 (1) A factor listed in paragraph (2)(A), in conjunction with an associated exposure  
6 pathway and life cycle segment, if applicable, is relevant if:

7 (A) The factor makes a material contribution to one or more adverse public health  
8 impacts, adverse environmental impacts, adverse waste and end-of-life effects, and/or  
9 materials and resource consumption impacts associated with the Priority Product and/or one or  
10 more alternatives under consideration; and

11 (B) There is a material difference in the factor's contribution to such impact(s) between  
12 the Priority Product and one or more alternatives under consideration and/or between two or  
13 more alternatives.

14 (2) The responsible entity shall use available quantitative information and analytical  
15 tools, supplemented by available qualitative information and analytical tools, to identify the  
16 factors specified in subparagraph (A) and the associated exposure pathways and life cycle  
17 segments, if applicable, that are relevant for the comparison of the Priority Product and the  
18 alternatives still under consideration after completion of the first AA stage. The factors  
19 identified in subparagraphs (B) and (C) are relevant for all comparisons of the Priority Product  
20 and the alternatives.

21 (A) Multimedia life cycle impacts for the Priority Product and alternatives under  
22 consideration, and chemical hazards and adverse impacts for the Chemical(s) of Concern and  
23 any alternative replacement chemical(s) or other chemicals in the alternatives that differ from  
24 the chemicals in the Priority Product. This evaluation shall be based on available information,  
25 and shall include the following factors to the extent relevant:

26 1. Adverse environmental impacts;

27 2. Adverse public health impacts;

28 3. Adverse waste and end-of-life effects;

29 4. Environmental fate;

30 5. Materials and resource consumption impacts;

31 6. Physical chemical hazards; and

32 7. Physicochemical properties.

33 (B) Product function and performance. The responsible entity shall identify the principal  
34 manufacturer-intended use(s) or application(s), the functional and performance attributes, and  
35 the applicable legal requirements for the Priority Product. The responsible entity shall, at a  
36 minimum, evaluate:

37 1. The useful life of the Priority Product, and that of the alternatives under  
38 consideration;

39 2. The function and performance of each alternative relative to the Priority Product and  
40 other alternatives under consideration; and

41 3. Whether an alternative exists that is functionally acceptable, technically feasible, and  
42 economically feasible.

1        (C) Economic impacts.

2        1. The responsible entity shall evaluate, monetize, and compare for the relevant  
3 exposure pathways and life cycle segments the following impacts of the Priority Product and  
4 the alternatives:

5        a. Public health and environmental costs; and

6        b. Costs to governmental agencies and non-profit organizations that manage waste,  
7 oversee environmental cleanup and restoration efforts, and/or are charged with protecting  
8 natural resources, water quality, and wildlife.

9        2. If the responsible entity's alternative selection decision is to retain the Priority  
10 Product based in whole or in part on internal cost impacts, this decision must be explained in  
11 the Final AA Report. The Final AA Report must include a quantified comparison of the internal  
12 cost impacts of the Priority Product and the alternatives, including manufacturing, marketing,  
13 materials and equipment acquisition, and resource consumption costs.

14        (3) Exposure pathways. The responsible entity's identification of relevant exposure  
15 pathways shall consider both of the following:

16        (A) Chemical quantity information:

17        1. Quantities of the Chemical(s) of Concern or alternative replacement chemical(s)  
18 necessary to manufacture the Priority Product and each alternative under consideration; and

19        2. Estimated volume and/or mass of the Chemical(s) of Concern or alternative  
20 replacement chemical(s) that is/are or would be placed into the stream of commerce in  
21 California as a result of the Priority Product and each alternative under consideration.

22        (B) Exposure factors specified in section 69503.3(b).

23        (b) Step 2, Comparison of the Priority Product and Alternatives.

24        The responsible entity shall use available quantitative information and analytical tools,  
25 supplemented by available qualitative information and analytical tools, to evaluate and  
26 compare the Priority Product and each of the alternatives under consideration with respect to  
27 each relevant factor and associated exposure pathways and life cycle segments, if applicable,  
28 identified under subsection (a). The responsible entity shall compare each alternative with the  
29 Priority Product and with each of the other alternatives under consideration.

30        (c) Step 3, Consideration of Additional Information.

31        As part of the second stage of the AA, the responsible entity may also consider other  
32 pertinent information not specifically identified in this section. This may include, but is not  
33 limited to, reconsideration of the factors and information identified in section 69505.5.

34        (d) Step 4, Alternative Selection Decision.

35        The responsible entity shall select the alternative(s) that will replace the Priority Product,  
36 unless the decision is to retain the existing Priority Product. The selection of an alternative or  
37 the decision to retain the Priority Product shall be based on and supported by the comparative  
38 analysis conducted under subsections (b) and (c).

39        (e) Step 5, Final AA Report Preparation.

40        The responsible entity shall prepare and submit to the Department a Final AA Report as  
41 specified under section 69505.7.

42

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

3  
4 **§ 69505.7. Alternatives Analysis Reports.**

5 (a) General Requirements. All references in this section to “AA Reports” mean the  
6 Preliminary ~~and~~AA Report, Final AA Report, draft Abridged AA Report, and/or final Abridged  
7 AA Report, as applicable, unless otherwise specified.

8 (1) The Preliminary and Final AA Reports, and draft and final Abridged AA Reports,  
9 must each include, ~~as applicable,~~ all of the applicable information specified in subsections (b)  
10 through (k).

11 (2) The responsible entity shall include in the AA Reports sufficient information for the  
12 Department to determine ~~compliance with~~;

13 (A) Compliance with the substantive and administrative requirements of this article;  
14 and

15 ~~(3) The responsible entity shall include in the Preliminary AA Report sufficient~~  
16 ~~information for the Department to determine the~~(B) The appropriate due date for submission  
17 of the Final AA Report.

18 ~~(4) The responsible entity shall include in the Final AA Report sufficient information for~~  
19 ~~the Department to determine~~ or final Abridged AA Report, whichever is applicable, and the  
20 appropriate due date for any regulatory response(s), if any, required under article 6.

21 ~~(5)~~ (3) The responsible entity shall identify and explain in the Final AA Report all differences  
22 in the information and analyses presented in the Preliminary AA Report and the Final AA  
23 Report. The responsible entity must identify in the Final AA Report the information sources  
24 used to support changes from the Preliminary AA Report to the Final AA Report. This  
25 information shall also be included in a final Abridged AA Report with respect to differences  
26 between the draft and final Abridged AA Reports.

27 ~~(6)~~ (4) The responsible entity shall maximize the scope of information in the AA Report that  
28 can be made available to the public, while maintaining protection of legitimate trade secrets.

29 (A) If the AA Report contains information claimed by the responsible entity to be a trade  
30 secret, a separate publicly available AA Report shall be submitted to the Department that  
31 masks claimed trade secret information only to the extent necessary to protect its confidential  
32 nature.

33 (B) If the Department subsequently rejects a trade secret claim and/or the nature and/or  
34 extent of masking, the responsible entity shall, at the Department’s request, submit a revised  
35 publicly available AA Report and executive summary within thirty (30) days of the request to  
36 add any information for which a trade secret claim or masking is rejected.

37 (b) Executive Summary. AA Reports must include a publicly available executive  
38 summary sufficient to convey a general understanding of the scope and results of the AA and  
39 the rationale for the AA selection decision. The executive summary must be organized in  
40 conformance with the organization of the AA Report and must include, for each section of the  
41 AA Report, a detailed summary of the information presented. Information for which trade  
42 secret protection is claimed must not be included in the executive summary.

- 1 (c) Preparer Information. This section of the AA Report must include:
- 2 (1) The name of, and contact information for, the person submitting the AA Report;
- 3 (2) If applicable, the name of, and contact information for, all responsible entities on  
4 whose behalf the AA Report is being submitted; ~~and~~
- 5 (3) The names of the parties that were involved in funding, directing, overseeing,  
6 preparing, and/or reviewing the AA, ~~and the qualifications and certification information,~~  
7 ~~demonstrating compliance with article 8, for the individual(s) in responsible charge under~~  
8 ~~whose direction the AA was conducted and the AA Report was prepared.; and~~
- 9 (4) The method(s) for the public to submit comments on the Preliminary AA Report or  
10 draft Abridged AA Report under section 69505.1(d)(2).
- 11 (d) Responsible Entity and Supply Chain Information. This section of the AA Report  
12 must include:
- 13 (1) The name of, contact information for, and headquarters location of the  
14 manufacturer(s) and ~~the importer,(s)~~, if applicable, and, if the AA Report is prepared on behalf  
15 of a consortium of manufacturers or other persons in the Priority Product's supply chain, a list  
16 of the participants along with their ~~corresponding~~ contact information;
- 17 (2) The name of, and contact information for, any ~~persons~~ person(s) identified on the  
18 product Priority Product label as the manufacturer, importer, or distributor;
- 19 (3) The name of, and contact information for, all persons in California, other than the  
20 final purchaser or lessee, to whom the manufacturer or importer directly sold the Priority  
21 Product within the prior twelve (12) months; and
- 22 (4) Identification and location of the manufacturer's and/or importer's retail sales outlets  
23 where the manufacturer and/or importer sold, supplied, or offered for sale the ~~product~~ Priority  
24 Product in California, if applicable; and,
- 25 (5) ~~The proximity of the place(s) of product manufacture to one or more source(s) of~~  
26 ~~virgin or recycled materials that directly or indirectly influences the type and/or amount of~~  
27 ~~Chemical(s) of Concern in the Priority Product.~~
- 28 (e) ~~Product Information.~~
- 29 (e) Priority Product Information. This section of the AA Report must include:
- 30 (1) The brand name(s) and product name(s) under which the ~~product~~ Priority Product is  
31 placed into the stream of commerce in California;
- 32 (2) ~~If applicable, the Priority Product is a component of one or more assembled~~  
33 products, a description of the known product(s) and/or homogeneous material(s) and its/their  
34 associated in which the component(s) that is/are the focus of the AA; is used;
- 35 (3) Identification of the Chemical(s) of Concern ~~in the Priority Product that is/are the~~  
36 ~~basis for the product being included on the Priority Product list, and any other Chemical(s) of~~  
37 ~~Concern that is/are known, or reasonably should be known based on available information, to~~  
38 ~~be in the product; and~~ Priority Product;
- 39 (4) Any Material Safety Data Sheets related to the Priority Product; and
- 40 (5) The information specified in paragraphs (1) and (2) of section 69505.3(b)(15)(a).

1 (f) ~~Scope and Comparison of Alternatives.~~ The AA Reports must identify and describe  
2 the alternatives chosen to be evaluated and compared, and explain the rationale for selecting  
3 and screening out specific alternatives at each stage of the alternatives comparison process.

4 (1)(A) ~~The Preliminary AA Report must include all of the following information for the~~  
5 ~~evaluation and comparison, conducted under section 69505.3(b), of the Chemical(s) of~~  
6 ~~Concern in the Priority Product and possible alternative chemical(s):~~

7 1. ~~The information collected for the Chemical(s) of Concern and alternative~~  
8 ~~chemical(s); and~~

9 2. ~~The comparative results of evaluating the information presented under~~  
10 ~~subparagraph 1.~~

11 (B) ~~The information required under subparagraph (A) must be presented in a matrix, or~~  
12 ~~other format, that provides the reviewer with an easily understood visual comparison of the~~  
13 ~~chemicals and their adverse impacts.~~

14 (2) ~~The Final AA Report must include all of the following information for the evaluation~~  
15 ~~and comparison of the Priority Product and its alternatives conducted under sections~~  
16 ~~69505.3(b) and 69505.4:~~

17 (A) ~~A matrix, or other format, that provides the reviewer with an easily understood visual~~  
18 ~~comparison that presents all of the following, as applicable, for the evaluations conducted~~  
19 ~~under sections 69505.3(b) and 69505.4:~~

20 1. ~~The relevant exposure pathways and life cycle segments, if applicable, for each~~  
21 ~~relevant comparison factor;~~

22 2. ~~The information collected for each relevant factor and, where applicable, associated~~  
23 ~~exposure pathways and life cycle segments for the Priority Product and each alternative~~  
24 ~~considered; and~~

25 3. ~~The comparative results of evaluating the information presented under~~  
26 ~~subparagraph 2.~~

27 (B) ~~A description, if applicable, of how safeguards provided by other federal and~~  
28 ~~California State regulatory programs were considered in the AA, including identification of~~  
29 ~~these programs and safeguards considered.~~

30 (3) ~~The responsible entity shall demonstrate in the Final AA Report that all of the~~  
31 ~~requirements of section 69505.4(b) have been met.~~

32 (g) ~~Scope (f) Scope of Relevant Comparison Factors.~~ The Final AA Report must  
33 identify which factors and, ~~where~~when applicable, associated exposure pathways and life cycle  
34 segments were determined to be relevant, under section 69505.46(a), for evaluation and  
35 comparison of the Priority Product and its alternatives. For each factor, and exposure pathway  
36 and life cycle segment, if applicable, determined not to be relevant, the Final AA Report must  
37 explain the rationale and identify, and explain the pertinent findings of, the supporting  
38 information for this determination.

39 (h) ~~Methodology.~~ (g) Scope and Comparison of Alternatives. The AA Report  
40 shall Reports must identify and describe the analysis alternatives chosen to be evaluated and  
41 compared, and explain the rationale for selecting and screening out specific alternatives at  
42 each stage of the alternatives comparison process. For any alternative that is screened out

1 because it is determined that its adverse impacts are equal to or greater than those of the  
2 Priority Product, the responsible entity shall describe in the AA Report the method used to  
3 determine equal or greater adverse impacts, including the method used to compare the  
4 multiple factors associated with the impacts, and the rationale for any trade-offs made among  
5 the factors.

6 (1) The Preliminary AA Report must include the information collected and the  
7 comparison conducted under section 69505.5 for the Chemical(s) of Concern and the  
8 alternative replacement chemical(s). The information and comparison must be presented in a  
9 matrix, or other summary format, that provides a clear visual comparison among the chemicals  
10 and their associated adverse impacts.

11 (2) The Final AA Report must include the information collected and the comparison  
12 conducted under sections 69505.5 and 69505.6 for the Priority Product and its alternatives,  
13 including:

14 (A) A matrix, or other summary format, that provides a clear visual comparison that  
15 includes the information collected regarding the relevant comparison factors, and their  
16 associated relevant exposure pathways and life cycle segments, for the Priority Product and  
17 each alternative considered, and the comparative results of evaluating this information; and

18 (B) Identification and description of how any relevant safeguards provided by other  
19 federal and California State regulatory programs were considered in the AA.

20 (3) The responsible entity shall demonstrate in the Final AA Report that all of the  
21 requirements of section 69505.6 have been met.

22 (h) Methodology. The AA Report shall identify and describe the analytical tools,  
23 models, and software used to conduct the AA, and discuss any of their limitations of these  
24 tools, models, and software. The AA Report shall also identify any published methodologies  
25 and/or guidelines used, and any deviations taken from the published those methodologies  
26 and/or guidelines.

27 (i) Supporting Information.

28 (1) All information used as supporting information in performance of the AA and  
29 preparation of the AA Reports must be cited in the AA Reports and made available to the  
30 Department, upon request. The AA Reports must include a brief summary of the information  
31 reviewed and considered under section 69505.1(h). ~~d(1)~~. Final AA Reports and final  
32 Abridged AA Reports must include a summary of the public comments submitted under section  
33 69505.1(d)(2), and a description as to how the comments are addressed in the report or an  
34 explanation as to why the comments are not addressed in the AA Report.

35 (2) The Final AA Report must ~~include the identification of~~ identify information that is not  
36 currently available but, if it were available, could be used to:

37 (A) Validate information used for purposes of sections 69505.3(b) ~~5~~ and 69505.4; ~~6~~;  
38 and/or

39 (B) Address any uncertainties in the analyses conducted under sections 69505.3(b) ~~5~~  
40 and 69505.4; and/or

1 ~~(C) — Ensure that the list of chemical ingredients required to be identified for the product~~  
2 ~~and its alternatives during the conduct of the AA and the preparation of the AA Reports is~~  
3 ~~complete.~~

4 (j) Selected Alternative(s).

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

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

14 (A) The product function and performance information specified in section  
15 69505.46(a)(2)(B) for the selected alternative(s). If no alternative is selected, this information  
16 must be provided for each alternative considered.

17 (B) An explanation of the rationale for ~~deciding to retain~~retaining the Chemical(s) of  
18 Concern or ~~to use substitute~~using the alternative replacement chemical(s), if section  
19 69505.5(a)(3)(b)(1)(C)2.)~~(B)~~ applies, and ~~the one or more selected alternative~~alternatives  
20 ~~retains the Chemical(s) of Concern, that is/are the basis for the product being included on the~~  
21 ~~Priority Products list, or uses substitute chemical(s)-one or more replacement chemicals.~~

22 (C) A list of all ~~chemical ingredients~~chemicals known, based on available information, to  
23 be in the selected alternative(s) that are Chemicals of Concern, that differ from the ~~chemical~~  
24 ~~ingredients~~chemicals in the Priority Product, or that are present in the selected alternative(s) at  
25 a higher concentration than in the Priority Product, ~~and all of the~~relative to other chemicals in  
26 the Priority Product other than the Chemical(s) of Concern. The following information ~~that is,~~  
27 to the extent available, must be provided for those chemicals:

28 1. Environmental fate;

29 2. Hazard trait(s) and environmental and toxicological endpoint(s) information ~~for any of~~  
30 ~~those chemicals for which such information~~that has not already been provided to the  
31 Department under this chapter;

32 3. Information ~~on~~about the chemical purity, meaning the relative ~~freedom from~~absence  
33 of extraneous matter, of the chemicals and identification of known impurities and additives in  
34 the chemical;

35 4. ~~Physical chemical~~ hazards;

36 5. Physicochemical properties; and

37 6. Substance identification information, including all of the following that are applicable:

38 a. Chemical abstract services number;

39 b. Structural formula;

40 c. Molecular weight;

41 d. Synonyms;

42 e. International Union of Pure and Applied Chemistry name;

- 1 f. European Commission number;
- 2 g. Registry of Toxic Effects of Chemical Substances number;
- 3 h. International Union of Biochemistry and Molecular Biology number;
- 4 i. Japan Ministry of International Trade and Industry number;
- 5 j. Number assigned by the United Nations Experts on the Transport of Dangerous
- 6 Goods;
- 7 k. North America Department of Transportation number;
- 8 l. European Inventory of Existing Commercial Chemical Substances number;
- 9 m. European List of Notified Chemical Substances number;
- 10 n. European Commission Directive 67/548/EEC No Longer Polymers number; and
- 11 o. Other commonly recognized substance identification system numbers.

12 (k) Next Steps.

13 (1) Work plan. The Preliminary AA Report must include the work plan and proposed

14 implementation schedule for completion of the second AA stage required to be prepared under

15 section 69505.3(b)(5)-(e)(1). The work plan must include a description of the process that will

16 be used to identify the factors and associated exposure pathways and life cycle segments that

17 are relevant for the comparison of the Priority Product and the alternatives under

18 consideration, as required under section 69505.6(a).

19 (A) The work plan and implementation schedule must specify the proposed submission

20 date for the Final AA Report, and must ensure that the Final AA Report or progress report, if

21 applicable, will be submitted to the Department no later than twelve (12) months after the

22 Department issues a notice of compliance for the Preliminary AA Report. If the Department

23 approves an extended due date under section 69505.8(b)(4)(A), the responsible entity shall

24 provide a yearly progress report until the Final AA Report is submitted. The first yearly

25 progress report shall be submitted no later than twelve (12) months after the Department

26 issues a notice of compliance for the Preliminary AA Report. Each progress report must

27 include:

- 28 1. Preparer information specified in subsection (c);
- 29 2. Priority Product information specified in subsection (e);
- 30 3. A summary of achievements since the last progress report;
- 31 4. A summary and discussion of issues that have arisen and their resolutions;
- 32 5. A summary of work that is pending; and
- 33 6. An assessment of whether the milestones in the schedule set forth in the Preliminary
- 34 AA Report or Alternate Process AA Work Plan are anticipated to be completed on time and
- 35 any contingency plans to ensure timely completion.

36 (B) The responsible entity may request an ~~extension~~ extended due date for submittal of

37 the Final AA Report, Any requested extension shall not to exceed twenty-four (24) months

38 from the date the Department issues a notice of compliance for the Preliminary AA Report.

39 ~~The extension request must include a detailed explanation of why additional time is needed. If~~

40 ~~the Priority Products list identifies more than one component or homogeneous material that~~

41 ~~must be included in the AA for the product, separate submission dates may be proposed for~~

42 ~~each component and/or homogeneous material. If the responsible entity chooses to include~~

1 additional components and/or homogeneous materials in the AA, separate submission dates  
2 may be proposed for each of those components and/or homogeneous materials.

3 (C) ~~The responsible entity may request an extension for submittal of the Final AA~~  
4 ~~Report, not to exceed thirty-six (36) months from the date the Department issues a notice of~~  
5 ~~compliance for the Preliminary AA Report, if the, unless additional time is needed to conduct~~  
6 ~~regulatory safety and/or performance testing on multiple alternatives prior to making an AA~~  
7 ~~selection decision. The, in which case the requested extension shall not exceed thirty-six (36)~~  
8 ~~months. The extended due date request must include a detailed explanation of why additional~~  
9 ~~time is needed.~~

10 (2) Implementation of selected alternatives. The Final AA Report must include a  
11 detailed implementation plan as specified in section 69505.4 ~~(e) for implementing any selected~~  
12 ~~alternative(s).~~

13 (A) The implementation plan must include key milestones and dates for implementing  
14 the selected alternative, ~~(s), if applicable, and identify applicable federal, state, or local laws~~  
15 ~~and steps that will be taken to ensure compliance with these applicable federal, state, and/or~~  
16 ~~local laws.~~

17 (B) The implementation plan may also include the identification of and implementation  
18 plan(s) for any regulatory response(s) that the responsible entity wishes to propose that would  
19 best limit the exposure to, or reduce the level of adverse public health and environmental  
20 impacts or adverse waste and end-of-life effects posed by, any Chemical(s) of Concern or  
21 replacement Candidate Chemical(s) that will be in the selected alternative or (s) or the  
22 Chemical(s) of Concern that is/are in the Priority Product if the decision resulting from the AA  
23 is to retain the Priority Product.

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

27  
28 **§ 69505.68. Department Review and Determinations for AA Reports and Work Plans.**

29 (a) Review Criteria. In reviewing AA Reports and Alternate Process AA Work Plans for  
30 compliance with the substantive and administrative requirements of this article, the Department  
31 shall consider:

32 (1) Whether the AA Report or Alternate Process AA Work Plan was submitted timely;

33 (2) Whether, and to what extent, the responsible entity considered and addressed all  
34 applicable provisions of this article pertaining to the preparation and submittal of an AA Report  
35 or Alternate Process AA Work Plan, whichever is applicable;

36 (3) Whether, and to what extent, the responsible entity demonstrated that the  
37 conclusions of the AA were based on reliable information, when applicable; and

38 (4) Whether, and to what extent, the responsible entity demonstrated that the  
39 conclusions of the AA Report were determined using reliable information.

40 (b) Preliminary AA Reports, Draft and Final Abridged AA Reports, and Alternate  
41 Process AA Work Plans.

1 (1) Within sixty (60) days of receiving a Preliminary AA Report, draft or final Abridged  
2 AA Report, or Alternate Process AA Work Plan, the Department shall review the Preliminary  
3 AA Report report or work plan for compliance with this article, and issue a notice of  
4 compliance, a notice of deficiency, ~~or a notice of disapproval,~~ or notice of ongoing review.

5 ~~(2)~~(2) Notice of Deficiency.

6 (A) The Department shall specify in a notice of deficiency the areas of deficiency, the  
7 information required to cure the deficiency(ies), and the due date for submitting the necessary  
8 ~~information to complete the Preliminary AA Report. The due date for correcting the areas of~~  
9 deficiency, which may not exceed sixty (60) days from the date the notice of deficiency is  
10 issued. The responsible entity shall submit a revised ~~Preliminary AA Report~~report or work  
11 plan, whichever is applicable, by the due date specified, and address the areas of deficiency.

12 (B) Within thirty (30) days of receipt of the additional information requested in the notice  
13 of deficiency, the Department shall issue a notice of compliance, a notice of disapproval, or a  
14 notice of ongoing review for the ~~Preliminary AA Report. If the Preliminary AA Report is~~  
15 ~~disapproved, the Department shall explain the basis for the disapproval in the notice. The~~  
16 ~~Department shall also issue a notice of disapproval if a revised Preliminary AA Report is not~~  
17 ~~submitted by the due date specified under subparagraph (A). A disapproved Preliminary AA~~  
18 ~~Report is not in compliance with section 69505.1(c)(2)-report or work plan.~~

19 ~~(3)~~(3) Notice of Disapproval. If the revised report or work plan does not fully address the  
20 identified areas of deficiency, the Department shall issue a notice of disapproval. The  
21 Department shall also issue a notice of disapproval if a revised report or work plan is not  
22 submitted by the due date specified under paragraph (2)(A). If the report or work plan is  
23 disapproved, the Department shall explain the basis for the disapproval. A disapproved report  
24 or work plan is not in compliance with section 69505.1(b).

25 (4) Notice of Compliance.

26 (A) The Department shall specify in a notice of compliance for a Preliminary AA Report  
27 or Alternate Process AA Work Plan the due date for submitting the Final AA Report. The  
28 Department shall specify a due date ~~that is~~ twelve (12) months from the date the Department  
29 issues the notice of compliance, except that the Department may specify ~~more time~~ an  
30 extended due date for submission of the Final AA Report if it determines based on information  
31 in the Preliminary AA Report or Alternate Process AA Work Plan that more time is needed.  
32 The Department may ~~not establish~~ also specify an extended due date for submission of the  
33 Final AA Report that is more than twenty-four (24) months from if the date the Department  
34 issues the notice of compliance for the Preliminary AA Report, except as provided in  
35 sections responsible entity submits a request under section 69505.1(d) and  
36 69505.57(k)(1)(C).

37 ~~(b)~~(B) The Department shall specify in a notice of compliance for a draft Abridged AA  
38 Report the due date for submitting the final Abridged AA Report, which shall be no later than  
39 ninety (90) days after the end of the public comment period the draft Abridged AA Report.

40 (c) Final AA Reports.

1 (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, notice of disapproval, or a notice of ongoing review.

4 (2) Notice of Deficiency.

5 (A) The Department shall specify in a notice of deficiency the areas of deficiency, the  
6 information required to cure the deficiency(ies), and the due date for submitting the necessary  
7 information to complete the Final AA Report. ~~The due date for correcting the areas of~~  
8 ~~deficiency, which~~ may not exceed sixty (60) days from the date of the notice of deficiency is  
9 issued. The responsible entity shall submit a revised Final AA Report by the due date  
10 specified, and address all areas of deficiency. ~~If requested by~~ Pursuant to section 69505.1(c),  
11 the responsible entity, may request, and the Department may approve, a one-time extension,  
12 of not more than ~~sixty (60)~~ ninety (90) days, for submission of the revised Final AA Report to  
13 correct the deficiencies.

14 (3B) Within sixty (60) days of receipt of the requested additional information, the  
15 Department shall issue a notice of compliance, a second notice of deficiency, or a notice of  
16 ongoing review.

17 (A) ~~1.~~ If the Department issues a second notice of deficiency, the Department may grant  
18 no more than thirty (30) days for ~~resubmission~~ submission of the requested information.

19 (B) ~~2.~~ Within sixty (60) days of receipt of the additional information requested in the second  
20 notice of deficiency, the Department shall issue a notice of compliance, a notice of disapproval,  
21 or a notice of ongoing review for the Final AA Report.

22 (3) Notice of Disapproval. ~~If the Final AA Report is disapproved~~ does not fully address  
23 the areas of deficiency identified in the second notice of deficiency, the Department shall  
24 ~~explain the basis for the~~ issue a notice of disapproval ~~in the notice.~~ The Department shall also  
25 issue a notice of disapproval if a revised Final AA Report is not submitted by the due date  
26 specified under paragraph (2)(A) or ~~subparagraph (A), paragraph (2)(B)1.,~~ whichever is  
27 applicable. If the report or work plan is disapproved, the Department shall explain the basis for  
28 the disapproval. A disapproved Final AA Report is not in compliance with section  
29 69505.1(e)(2b).

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

35 (2) ~~If the Department requires one or more regulatory responses under sections~~  
36 ~~69506.5, 69506.6, 69506.7, 69506.9, and/or 69506.10, the Department shall specify in the~~  
37 ~~notice the proposed due date(s) for implementation of the regulatory response(s). In assigning~~  
38 ~~a due date for completing a regulatory response, the Department shall consider the complexity~~  
39 ~~of implementing the regulatory response.~~

40 (d) ~~(d)~~ Notice of Ongoing Review. The Department shall specify in a notice of ongoing  
41 review the estimated date by which the Department expects to issue a notice of compliance or  
42 notice of deficiency. ~~The Department, which~~ shall take into account be based on its available

1 resources and the complexity of the AA Report under review in ~~estimating the date for~~  
2 ~~issuance of a notice of compliance or notice of deficiency.~~

3 (e) Issuance of Notices. All notices issued by the Department under this section shall  
4 be issued to the person who submitted the AA Report, and a copy of the notice shall be sent  
5 by the Department to all persons identified in the AA Report under subsections (c)(2) and  
6 (c)(3) of section 69505.57.

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

## 10 11 **Article 6. Regulatory Responses**

### 12 13 **§ 69506. Regulatory Response Selection Principles.**

14 (a) Need for Regulatory Response. The Department shall identify and require  
15 implementation of one or more regulatory responses designed for Priority Products and/or  
16 selected alternative products when the Department determines such regulatory responses are  
17 necessary to protect public health and/or the environment, and. In selecting regulatory  
18 responses, the Department shall seek to maximize the use of alternatives of least concern,  
19 where when such alternatives are functionally acceptable, technically feasible, and  
20 economically feasible.

21 (b) Inherent Protection Preference. In selecting regulatory responses, the Department  
22 shall give preference to regulatory responses providing the greatest level of inherent  
23 protection. For these purposes, "inherent protection" refers to avoidance or reduction of  
24 adverse impact or exposure impacts, exposures, and/or adverse waste and end-of-life effects  
25 that is achieved through the redesign of a product or process, rather than through  
26 administrative or engineering controls designed to limit exposure to, or the release of, a  
27 Chemical of Concern or replacement Candidate Chemical in a product.

28 (c) Selection Factors. In selecting regulatory responses, the Department may consider  
29 any or all of the following factors:

30 (1) Public health and environmental protection.

31 (A) The likely actual effectiveness of degree to which, and speed with which, the  
32 regulatory response, including can address the capacity of responsible entities to comply, and  
33 the adverse impacts and/or adverse waste and end-of-life effects of the Chemical(s) of Concern  
34 or replacement Candidate Chemicals in the selected alternative, or the Chemical(s) of Concern  
35 in the Priority Product;

36 (B) The ability of end-users to understand and act upon any regulatory response  
37 involving provision of information and/or directions provided with respect to the product; Priority  
38 Product; and

39 (2) ~~The relative cost-effectiveness of the regulatory response as compared to other~~  
40 ~~possible responses;~~

41 (3) ~~The administrative and other burdens that would be placed upon the Department,~~  
42 ~~the responsible entities, the product end-users, and the public;~~

1 ~~(4)(C) Any adverse ecological impacts of the regulatory response on sensitive resources,~~  
2 ~~or unique or additional burdens that would be imposed by the regulatory response would~~  
3 ~~impose upon sensitive subpopulations; and/or,~~

4 ~~(5) The ease and efficacy<sup>2</sup>) Private economic interests of enforcement responsible~~  
5 ~~entities.~~

6 ~~(A) Existing federal and/or California State regulatory requirements applicable to the~~  
7 ~~Chemical(s) of Concern or replacement Candidate Chemicals in the product;~~

8 ~~(B) The cost to the responsible entity of the regulatory response(s) relative to the cost~~  
9 ~~of other possible responses; and~~

10 ~~(C) The practical capacity of responsible entities to comply with regulatory response(s).~~

11 ~~(3) Government interest in efficiency and cost containment.~~

12 ~~(A) The management and clean-up costs imposed on public agencies by the ongoing~~  
13 ~~sale of the Priority Product or a selected alternative;~~

14 ~~(B) The Department's administrative burden in overseeing implementation of the~~  
15 ~~regulatory response(s); and~~

16 ~~(C) The ease of enforcing the regulatory response(s).~~

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

20  
21 **§ 69506.1. Applicability and Determination Process.**

22 (a) Applicability. This article applies to any product placed into the stream of commerce  
23 in California that is:

24 ~~(1) An alternative selected under section 69505.4(c);~~

25 ~~(2)(1) A Priority Product for which an alternative is not selected; or~~

26 ~~(2) An alternative selected under section 69505.6(d);~~

27 ~~(3) A Priority Product that will remain in commerce in California pending development~~  
28 ~~and distribution of a selected alternative; or~~

29 ~~(b) Prior to issuing a final regulatory response determination notice under sections~~  
30 ~~69506.5, 69506.6, 69506.7, 69506.9, and/or 69506.10, the Department, as required(4) A~~  
31 ~~Priority Product for which the AA Report is disapproved by the Department under section~~  
32 ~~69505.68(c)(3).~~

33 ~~(b) Exceptions. This article does not apply to a Priority Product if the manufacturer~~  
34 ~~submits a Removal or Replacement Confirmation Notification that fully meets the applicable~~  
35 ~~content requirements specified in subsections (b) through (e) of section 69505.2 to the~~  
36 ~~Department prior to the due date for implementing any regulatory response that would~~  
37 ~~otherwise apply to the product.~~

38 ~~(c), shall notify) Notice of Proposed Determination. After issuing a notice of compliance or~~  
39 ~~a notice of disapproval for a Final AA Report or a final Abridged AA Report, the Department~~  
40 ~~shall issue a notice of the Department's proposed determination that one or more of the~~  
41 ~~regulatory responses specified in this article is/are required, or that no regulatory response is~~

1 required. The notice shall be issued no later than ninety (90) days after the Department issues  
2 the notice of compliance or a notice of disapproval.

3 (d) Public Input. A notice issued pursuant to subsection (c) shall be sent to all known  
4 responsible entities for the product of the proposed regulatory response(s), and make the  
5 proposed regulatory response determination notice, and shall be made available on its the  
6 Department's website, for public review and comment. The proposed regulatory response  
7 determination notice shall include the Department's rationale for the proposed regulatory  
8 response(s). The Department shall hold one or more public workshop(s) to provide an  
9 opportunity for oral comment on the proposed regulatory response determination. The

10 Department shall send to individuals on the electronic mailing list(s) that the Department  
11 establishes related to this chapter, and post on its website, a notice regarding the availability of  
12 the proposed regulatory response determination. The notice must include all of the following:

13 (1) The last day for the public to submit written comments on the proposed regulatory  
14 response determination. The last day for submission of public comments shall be no sooner  
15 than forty-five (45) days from the date the notice of the availability of the proposed regulatory  
16 response determination notice is posted on the Department's website or the date the notice is  
17 sent to individuals on the electronic mailing list(s) that the Department establishes related to  
18 this chapter, and posted on the Department's website; whichever is later.

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

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

21 ~~(e)~~ (e) Notice of Final Determination. After review and consideration of public  
22 comments, the Department shall finalize post on its website and send to known responsible  
23 entities the final regulatory response determination notice. The Department may respond to  
24 some or all public comments received.

25 ~~(d)~~ (f) Contents of Notices. All proposed and final regulatory response determination  
26 notices must include all of the following:

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

28 ~~(2)~~ The Department's basis for requiring the), or a determination that no regulatory  
29 response(s); is required, whichever is applicable;

30 ~~(3)~~ The rationale, information, and information sources supporting the Department's  
31 determination(s); and

32 ~~(4)~~ The implementation due date(s) for the regulatory response(s)-), if applicable; and

33 ~~(e)~~ (4) The Department's determination as to whether or not the regulatory response(s)  
34 apply(ies) to either or both of the following:

35 (A) Priority Products ordered by a retailer prior to the effective date of the Priority  
36 Product listing, and still for sale by the retailer as of the date of the final regulatory response  
37 determination notice; and/or

38 (B) Priority Products manufactured after the effective date of the Priority Product listing,  
39 but before the date of the final regulatory response determination notice.

40 (g) Implementation Due Date(s). In assigning a due date for implementation of one or  
41 more regulatory responses, the Department shall consider the complexity of  
42 implementing the regulatory response-(s).

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

4  
5 **~~§ 69506.2.—AA Report Supplemental Information Requirements.~~**

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

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

16 (h) Finality of Regulatory Response(s). Once a final regulatory response determination  
17 notice has been issued, the Department shall not augment or revise the regulatory responses  
18 for the affected product, except as provided otherwise in section 69506.2 and article 7.

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

22  
23 **§ 69506.3.—No2. Supplemental Information and Regulatory Response Required.**  
24 **Revisions.**

25 ~~No~~(a) Supplemental Information for Selection of Regulatory Response(s). Prior to  
26 imposing any regulatory response for a product, the Department may require the responsible  
27 entity to obtain or develop, and provide to the Department within a specified time frame, any  
28 information supplementary to the AA Report that the Department determines is necessary to  
29 select and ensure implementation of one or more regulatory responses.

30 (b) Information-Generation for Revision of Regulatory Response(s).

31 (1) When imposing one or more regulatory responses for a product, the Department  
32 may include a requirement that the responsible entity provide information to the Department to  
33 fill one or more information gaps identified in the AA Report under sections 69506.4 through  
34 69506.10 is required for the selected alternative, section 69505.7(i)(2), if the Department  
35 determines for the selected alternative that no this information is necessary to re-evaluate one  
36 or more of the other initial regulatory responses.

37 (2) Following receipt of information required to be provided under paragraph (1), the  
38 Department may, based on this new information, revise the initial regulatory response is  
39 necessary to prevent or limit adverse(s) imposed for the product in accordance with the  
40 procedures set forth in section 69506.1. Any revisions to the initial regulatory responses shall  
41 be noticed for public health or environmental impacts review and comment no later than ninety  
42 (90) days after receiving the information required to be provided under paragraph (1).

1 (c) Regulatory Response Revisions for Revised AA Reports. In addition to the  
2 circumstances described in subsection (b), the Department may revise the initial regulatory  
3 response(s) imposed for a product in response to a revised AA Report submitted by a  
4 responsible entity under section 69505.4(e), within ninety (90) days after issuing the notice of  
5 compliance or notice of disapproval for the revised AA Report.

6  
7 NOTE: Authority cited: Sections 25253 and 58012, Health and Safety Code. Reference:  
8 Section 25253, Health and Safety Code.

9  
10 **§ 69506.43. Product Information for Consumers.**

11 ~~(a)(1) Except as provided in paragraph (2), this) Applicability. This section applies to~~  
12 ~~selected alternative products,;~~

13 ~~(1) Priority Products for which an alternative is not selected, and;~~

14 ~~(2) Priority Products which remain in that continue to be introduced into commerce in~~  
15 ~~California pending development and distribution of an alternative product for longer than twelve~~  
16 ~~(12) months after the Department issues a notice of compliance or a notice of disapproval for~~  
17 ~~the Final AA Report; and~~

18 ~~(3) Selected alternative products that retain the Chemical(s) of Concern, and/or contain~~  
19 ~~any replacement Candidate Chemical(s).~~

20 ~~(b) Required Information. Beginning no later than twelve (12) months after the date~~  
21 ~~specified by the Department issues in the final regulatory response determination notice of~~  
22 ~~compliance for the Final AA Report for the product, or when the product is first placed into the~~  
23 ~~stream of commerce in California, whichever is later, and for as long thereafter as the product~~  
24 ~~is continues to be placed into the stream of commerce in California, the responsible entity shall~~  
25 ~~ensure that all of the following information is made available to the consumer prior to exposure~~  
26 ~~to any Chemical(s) of Concern product purchase:~~

27 ~~(A1) Manufacturer's name and importer's name, and/or the name of any other entity listed~~  
28 ~~on the product label;~~

29 ~~(B2) Brand name(s) and product name(s), and a description of the product;~~

30 ~~(C3) A list of, and common names for, all Chemicals any Chemical(s) of Concern known~~  
31 ~~to be that remain in the product, and/or any replacement Candidate Chemical(s) and known~~  
32 ~~hazards traits and/or environmental or toxicological endpoints for those chemicals, based on~~  
33 ~~available information;~~

34 ~~(D4) A statement informing consumers that the product must be disposed of or otherwise~~  
35 ~~managed as a hazardous waste at the end of its useful life, if applicable;~~

36 ~~(5) Any safe handling and storage procedures and/or other information needed to~~  
37 ~~protect public health or the environment during the useful life of the product, including~~  
38 ~~precautions that consumers may take to prevent or limit exposure to the Chemical(s) of~~  
39 ~~Concern or replacement Candidate Chemical(s), and first aid and accidental release~~  
40 ~~procedures;~~

41 ~~(E6) Identification of any end-of-life management requirements specified by law, and any~~  
42 ~~existing end-of-life management program(s) for the product; and~~

1 (F7) The manufacturer's website address and the importer's website address where the  
2 consumer can obtain additional information about the product, the adverse public health and/or  
3 environmental impacts associated with the product as identified in the AA Report for the  
4 product, and proper end-of-life disposal or management of the product.

5 (2) ~~If the product contains no Chemical(s) of Concern above the applicable alternatives  
6 analysis threshold, then paragraph (1) does not apply.~~

7 (b) ~~c) Communication to Consumers.~~ The responsible entity shall satisfy subsection  
8 (a) by making the required information available to consumers, in easily seen, legible, and  
9 understandable formats, by both:

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

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

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

16 (B) Posting the information in a prominent place at the point of retail display. For  
17 products offered for sale online, the point of retail display is/are the web page(s) on which the  
18 product is offered for sale.

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

22  
23 **§ 69506.54. Use Restrictions on ~~Chemical(s) of Concern~~ Chemicals and Consumer**  
24 **Products.**

25 The Department may impose restrictions on the use of one or more Chemicals of Concern  
26 or replacement Candidate Chemicals in a selected alternative, or Chemicals of Concern in a  
27 Priority Product for which an alternative is not selected, or restrictions on the use of the product  
28 itself, that the Department determines are necessary to reduce the ability of potential for the  
29 product to contribute to or cause adverse public health impacts and/or environmental  
30 impacts adverse waste and end-of-life effects. Use restrictions may include one or more of the  
31 following:

32 (a) Restrictions on the amount or concentration of the Chemical(s) of Concern or  
33 replacement Candidate Chemical(s) permitted in a product;

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

35 (c) Restrictions regarding the form in which a product is sold;

36 (d) Restrictions on who may purchase and/or use a product;

37 (e) Requirements for training of product purchasers and/or users; and/or

38 (f) Any other use restriction that reduces the amount of any Chemical(s) of Concern or  
39 replacement Candidate Chemical(s) in the product, or reduces the ability of potential for the  
40 product to contribute to or cause an exposure to the Chemical(s) of Concern or replacement  
41 Candidate Chemical(s) in the product.

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

3  
4 **§ 69506.65. Product Sales Prohibition.**

5 (a) ~~This section does not apply to a product that does not contain any~~  
6 ~~Chemical~~Existence of Concern above the applicable alternatives analysis threshold.

7 (b) ~~— Safer Alternative(s). Except as provided in section 69506.3 and subsection (e), the~~  
8 ~~requirements of subsection (c) apply to subsection (c), the Department may require a~~  
9 ~~responsible entity to cease placing into the stream of commerce in California a selected~~  
10 ~~alternative product that contains one or more Chemical(s) of Concern, or replacement~~  
11 ~~Candidate Chemical(s), or a Priority Product for which an alternative is not selected, if the~~  
12 ~~Department determines and notifies~~provides notice to the responsible entity, under section  
13 69506.1, ~~that there is a safer alternative exists that does not contain the Chemical(s) of~~  
14 ~~Concern or replacement Candidate Chemical(s) and that does not contain a Chemical of~~  
15 ~~Concern and that is both~~is functionally acceptable and, technically feasible, and economically  
16 feasible. In making such a~~this~~ determination, the Department shall consider the potential  
17 adverse impacts and potential exposure pathways that have the ability to contribute to or  
18 cause adverse public health and/or environmental impacts associated with the alternative  
19 product or Priority Product, as applicable.

20 (c) ~~— Any responsible entity that is the subject of a notification issued under subsection (b)~~  
21 ~~shall cease to place the noticed product into the stream of commerce in California within one~~

22 (b) No Existing Safer Alternatives.

23 (1) ~~year after the Department issues the notification, unless the notification specifies a~~  
24 ~~shorter period of time.~~

25 (d)~~(1)~~ Except as provided in ~~section 69506.3 and subsection (e)~~c, the Department may  
26 issue a ~~notification~~notice, under section 69506.1, of its ~~determination~~ that a product containing  
27 ~~a~~the Chemical(s) of Concern or replacement Candidate Chemical(s) may no longer be placed  
28 into the stream of commerce in California, notwithstanding the fact that there are no currently  
29 identified safer alternatives that are ~~both~~ functionally acceptable and, technically feasible, and  
30 economically feasible.

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

34 (A) The overall beneficial public health and/or environmental impacts and/or social utility  
35 of the product significantly outweigh the overall adverse ~~public health and environmental~~  
36 impacts of the product; and

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

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

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

5 ~~(e) (c) Exceptions.~~ A responsible entity that receives a notification notice under  
6 subsection ~~(b)~~ or ~~(d)~~ is not subject to the requirements of subsection ~~(e)~~ or ~~(4)~~ if all of  
7 the following requirements are met:

8 (1) Within sixty (60) days after the notification notice is issued by the Department, the  
9 responsible entity notifies the Department in writing of its intent to submit a revised Final AA  
10 Report that selects an alternative that does not contain the Chemical(s) of Concern; or the  
11 replacement Candidate Chemical(s);

12 (2) ~~Within one (1) year after the notification is issued by the Department, unless the~~  
13 ~~Department specifies a shorter period of time in the notification, the~~ The Department receives  
14 a timely revised Final AA Report that selects an alternative that does not contain a  
15 Chemical(s) of Concern or the replacement Candidate Chemical(s) and that meets the  
16 requirements of complies with section 69505.57; and

17 (3) The product containing ~~one or more~~ the Chemical(s) of Concern or the replacement  
18 Candidate Chemical(s) is completely removed from no longer placed into the stream of  
19 commerce in California by the responsible entity, directly or indirectly, by the date specified by  
20 the Department in the notice of compliance or notice of disapproval for the revised Final AA  
21 Report submitted under paragraph (2), or in a separate final regulatory response determination  
22 notice issued under section 69505.6(c). The completion date shall be no longer than three (3)  
23 years after the Department issues the notice of compliance or notice of disapproval. 69506.1.

24 ~~(f) (d) Extensions.~~

25 (1) A responsible entity may request a one-time an extension to the due date for the  
26 revised Final AA Report to be submitted under subsection ~~(e)~~, under the procedures specified  
27 in section 69505.1 ~~(d)~~ or section 69505.7(k)(1)(B).

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

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

32 (B) The product shall cease to be placed into the stream of commerce in California by  
33 the responsible entity, directly or indirectly.

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

### 37 38 **§ 69506.76. Engineered Safety Measures or Administrative Controls**

39 (a) Requirement for Controls. The Department may, ~~under subsection (b), impose~~  
40 requirements require a manufacturer to engineer safety measures that integrally contain or  
41 control access to or, and/or implement administrative controls that limit exposure to, the  
42 Chemical(s) of Concern or replacement Candidate Chemical(s) in a selected alternative

1 ~~product, or, or the Chemical(s) of Concern in a Priority Product for which an alternative is not~~  
2 ~~selected, to reduce the likelihood of potential for adverse public health and/or environmental~~  
3 ~~impacts.~~

4 (b) Criteria. ~~Engineering or administrative controls may be imposed by the Department~~  
5 ~~to either integrally contain the Chemical(s) of Concern within the structure of the product or~~  
6 ~~limit exposure to the Chemical(s) of Concern, required~~ if one or more of the following applies:

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

10 (2) Reliable information indicates an elevated level of the Chemical(s) of Concern or  
11 replacement Candidate Chemical(s) in an indoor building or other enclosed environment;  
12 and/or

13 (3) Improper product handling would increase increases the likelihood of potential for  
14 release of, or exposure to, the Chemical(s) of Concern; or replacement Candidate  
15 Chemical(s).

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

19  
20 **§ 69506.87. End-of-Life Management Requirements.**

21 (a) ~~Except as provided in section 69506.3, a responsible entity for~~ (a) Applicability.  
22 A manufacturer of a selected alternative, or a Priority Product for which an alternative is not  
23 selected, that is sold or otherwise made available to consumers as a finished product and is  
24 required to be managed as a hazardous waste in California at the end of its useful life, shall  
25 ensure that comply with the following requirements are met: of subsection (c) except as  
26 otherwise provided under subsections (d) and (e).

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

30 (2) ~~(b) Manufacturer Collaboration Option.~~ (b) Manufacturer Collaboration Option. A manufacturer may individually fulfill the  
31 requirements of this section, or may join with other manufacturers to form a non-profit third-  
32 party product stewardship organization, funded by participating manufacturers, to fulfill the  
33 requirements of this section on behalf of the participating manufacturers.

34 (c) End-of-Life Program Requirements. No later than one (1) year after the date  
35 specified by the Department issues in the final regulatory response determination notice of  
36 compliance for the Final AA Report for the product, or no later than the responsible entity shall  
37 fund, date the product is first placed into the stream of commerce in California, whichever is  
38 later, the manufacturer shall establish, and maintain an end-of-life management program for  
39 the product. The program must comply with all of the following requirements:

40 (A1) A comprehensive product stewardship plan must be developed and maintained,  
41 after being the plan is submitted to and approved by the Department. If the Department  
42 disapproves the plan, it shall notify the manufacturer in writing, identify what is necessary to

1 correct deficiencies in the plan, and specify a due date for approval. The submission of a  
2 revised plan. If the plan is not resubmitted by the due date or does not address all of the  
3 deficiencies, the plan will be considered to be non-compliant with this section.

4 (2) Each product stewardship plan must include all of the following:

5 1-(A) A list of, and contact information for, participating manufacturers, importers, and  
6 other participating persons.

7 2-(B) The scope of products and brands to be covered by the plan.

8 3-(C) The roles and responsibilities for manufacturers, importers, assemblers, retailers,  
9 consumers, and government throughout the life cycle of the product, and identification of  
10 retailers and/or assemblers who have agreed to participate in the program.

11 4-(D) Identification and description of collection systems that will be used.

12 5-(E) End-of-life management information, that includes describes the steps that will be  
13 taken to ensure compliance with all applicable federal and California State and local laws, and  
14 that addresses any adverse multimedia impacts.

15 6. Anticipated (F) Identification of anticipated resources needed to implement and  
16 sustain the plan, including identification of any which must ensure that the end-of-life  
17 management program is maintained for sufficient time to be available at the end-of-life for the  
18 last covered product, and all previous covered products, that the manufacturer places into the  
19 stream of commerce in California. An estimate of the annual and total long-term program  
20 costs shall also be identified in the plan, along with the information, assumptions, calculations,  
21 and any models used to develop the cost estimate.

22 (G) The funding mechanism to cover, but not exceed, the costs identified in  
23 subparagraph (F). This requirement shall be satisfied by whichever of the following means is  
24 applicable:

25 1. If the end-of-life management program will be administered by a non-profit third-  
26 party product stewardship organization collecting and pursuant to subsection (b), the plan shall  
27 describe how the organization will collect operating revenues in an amount necessary to cover,  
28 but not exceed, the costs identified in subparagraph (F). This shall include the method and  
29 calculations used to determine how much each participant will contribute.

30 2. If an individual manufacturer is administering a fee to fund the stewardship program-  
31 7. and funding its own end-of-life management program, the manufacturer shall provide a-  
32 \_\_\_\_\_ A financial guarantee provided by the responsible entity to insure a sustainable end-  
33 of-life management program for the product.

34 b. "Financial guarantee" means any mechanism, including the mechanisms described  
35 in article 8 of chapter 14, that will ensure that adequate funding is available to pay for future  
36 end-of-life management costs for products placed into the stream of commerce in  
37 California. cover the costs identified in subparagraph (F).

38 8-(H) Program performance goals, which shall be quantitative to the extent feasible, for:

39 a1. Increasing the capture rate of covered products at the end-of-life; and

40 b. 2. Increasing recyclability, and recycling rate.

41 9-(I) A description of how each program goal will be achieved.

42 10-(J) Public education, outreach, and communications plans.

1 ~~11.~~(K) A description of public and stakeholder consultation activities during preparation,  
2 and in periodic of the plan, which shall include, at a minimum, provision of thirty (30) days for  
3 the public to comment on the proposed product stewardship plan through the manufacturer's  
4 website. The manufacturer shall transmit to the Department all comments received concurrent  
5 with submittal of the plan.

6 (L) A description of public and stakeholder consultation activities for review and  
7 updating, of the plan, which shall occur no less frequently than annually.

8 ~~12.~~(M) Reporting and evaluation procedures.

9 (B3) The product stewardship program and plan for collecting and, if applicable, recycling  
10 the product shall be developed in consultation with California retailers and owners/operators of  
11 prospective collection sites. The collection program must include one or both of the following:

12 1. (A) Collection mechanisms; and/or

13 2. ~~Compensation~~(B) If applicable, compensation to retailers and other persons  
14 who agree to administer or participate in the collection program.

15 (C4) The responsible entity ~~manufacturer~~ shall provide its product stewardship plan to the  
16 Department for review and approval, post a copy of the product stewardship plan on its own  
17 website, and provide ~~at that link to the posting~~ to the Department for posting on the  
18 Department's website.

19 (D5) The responsible entity ~~for manufacturer of a product subject to the requirements of~~  
20 this section shall ~~ensure that a provide an annual report is provided to the Department annually~~  
21 . The annual report is due one (1) year from the date the end-of-life management program is  
22 required to be implemented, and annually thereafter. The report must include, by total  
23 tonnage:

24 1. (A) The quantity of products placed into the stream of commerce in California over the  
25 previous one-year period; and

26 2. (B) The quantity of products recovered over the same one-year period.

27 (b) ~~Multiple responsible entities may form a third-party product stewardship~~  
28 ~~organization, funded by participating manufacturers and other responsible entities, to provide~~  
29 ~~local services to collect, recycle, or otherwise appropriately manage covered products at the~~  
30 ~~end-of-life.~~

31 (c) ~~A responsible entity subject to the requirements of~~(d) Alternative End-of-Life  
32 Programs. A manufacturer subject to this section may request the Department's approval to  
33 substitute an alternative end-of-life management program that achieves, to the maximum  
34 extent feasible, the same results as the program required by this section. A responsible  
35 entity A manufacturer may not propose an in-store take-back program as part of an alternative  
36 program unless the manufacturer provides in the plan evidence that a sufficient number of  
37 retailers have agreed in writing to participate to insure successful implementation of the plan  
38 as proposed. A manufacturer may not substitute an alternative end-of-life management  
39 program for the program specified in this section unless it receives advanced written approval  
40 from the Department.

41 (de) Exemption from End-of-Life Program Requirements.

1       (1) ~~A responsible entity~~manufacturer subject to ~~the requirements~~ of this section may  
2 request an exemption from the requirement to provide an end-of-life management program by  
3 demonstrating to the Department's satisfaction in the ~~Final AA Report~~ that an end-of-life  
4 management program cannot feasibly be implemented for the product.

5       (2) A manufacturer subject to this section is not exempt from this section until it receives  
6 written concurrence from the Department that an end-of-life management program cannot  
7 feasibly be implemented for the product.

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

### 11 12 **§ 69506.98. Advancement of Green Chemistry and Green Engineering.**

13 ~~The Department may require a~~When a manufacturer concludes that no safer alternative to  
14 its Priority Product is functionally acceptable, technically feasible, and economically feasible, or  
15 a manufacturer selects an alternative that reduces but does not eliminate the use of Candidate  
16 Chemicals in the product, the Department may require the manufacturer to initiate a research  
17 and development project or fund a challenge grant pertinent to the Priority Product that uses  
18 green chemistry and/or green engineering principles to do one or more of the following:

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

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

### 26 27 **§ 69506.10. ~~9.~~ Exemption from Regulatory Response Selection and Re-** 28 **Evaluation Requirements.**

29       (a) ~~—The Department may impose one or more regulatory responses specified in section~~  
30 ~~69506.2 and sections 69506.4 through 69506.9 to situations other than those specified in~~  
31 ~~those sections.~~

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

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

1 ~~§ 69506.11. Exemption from Regulatory Response Requirements.~~

2 (a) ~~Requests.~~ A product is exempt from the requirements of sections 69506.43 through  
3 69506.408, if the responsible entity requests, and the Department grants, an exemption. A  
4 responsible entity seeking an exemption shall submit an exemption request to the Department  
5 no later than ~~whichever of the following dates is applicable: sixty (60) days after the Department~~  
6 issues a final regulatory response determination notice for the product.

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

9 (2) ~~Sixty (60) days after the Department issues a notice~~ (b) Contents of compliance for  
10 a Final AA Report for a product subject to sections 69506.4 or 69506.8.

11 (b) ~~Requests.~~ An exemption request submitted under subsection (a) must include ~~all of~~  
12 the following:

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

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

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

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

20 (5) Information identifying and describing the product, ~~including~~ and the brand name(s)  
21 and product name(s) under which the product is placed into the stream of commerce in  
22 California, and ~~information specifically identifying~~ , if the product is a component and/or one or  
23 homogeneous material and its/their associated more assembled products, a description of the  
24 known product(s) in which the component, if applicable is used; and

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

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

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

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

40 (d) ~~(d) Actions Following Exemption Denial.~~ (d) Actions Following Exemption Denial. If the exemption request or the  
41 Department's granting of the exemption is based solely on the criteria specified in subsection

1 (b)(6)(A), the Department may require implementation of a modified regulatory response that  
2 resolves the conflict that is the basis for the exemption.

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

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

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

14  
15 **§ 69506.4210. Regulatory Response Report and Notifications.**

16 (a) Notification to Supply Chain. A responsible entity subject to a regulatory response  
17 other than one imposed under this article, except for the regulatory responses specified in  
18 sections 69506.2 and 69506.9, 8 shall ensure that a ~~notice~~notification is sent to all ~~retailers who~~  
19 sell persons in California, other than the final purchaser or lessee, to whom the responsible  
20 entity directly sells the product, and any other person other than the final purchaser or lessee  
21 to whom the responsible entity directly sells the product if it is reasonably foreseeable that the  
22 product will be placed into the stream of commerce in California, informing the ~~retailer~~those  
23 persons of the applicability of the regulatory response to the product. The ~~notice~~notification  
24 shall be sent to the ~~retailers~~, and, with a copy sent to the Department, no later than whichever  
25 of the following dates is applicable:

26 (1) ~~Thirty~~thirty (30) days after receiving a final regulatory response determination notice,  
27 under section 69506.1; ~~or~~

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

30 (b) Contents of Notifications. The ~~notice~~notification required under subsection (a) shall  
31 include all of the following:

32 (1) The name of, and contact information for, the person providing the notification;

33 (2) The name of, and contact information for, the responsible entity(ies) on whose  
34 behalf the notification is being provided;

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

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

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

1 component of one or more assembled products, a description of the known product(s) in which  
2 the component is used; and

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

5 ~~(c)~~—(c) Notifications to the Department. The responsible entity shall notify the  
6 Department upon completing implementation of the required regulatory response(s) and, if  
7 applicable, upon completing development and introduction into the California marketplace of  
8 the selected alternative(s). The notification must include information describing how the  
9 regulatory response(s) was/were implemented. If requested by the Department, the  
10 responsible entity shall provide periodic implementation status reports regarding the selected  
11 regulatory response(s); and/or the development and introduction into the California  
12 marketplace of the selected alternative(s). The information provided to the Department under  
13 this subsection shall also be posted on the website of the responsible entity.

14 ~~(d)~~(d) Regulatory Response Summary.

15 (1) The Department shall prepare and post on its website, and update at least annually,  
16 a Regulatory Response Summary that identifies the regulatory response(s) for each selected  
17 alternative ~~for~~ a Priority Product, or for the Priority Product, whichever is applicable. The  
18 Regulatory Response Summary must contain all of the following for which information is  
19 available:

20 (A) The name of, and contact information for, the manufacturer(s) and ~~the~~ importer(s);

21 (B) The names of, and contact information for, other known responsible entities;

22 (C) Information identifying and describing the original Priority Product, and the selected  
23 alternative(s), if any, ~~including~~ and the brand name(s) and product name(s) under which the  
24 product is placed into the stream of commerce in California, and, if the product is a component  
25 of one or more assembled products, a description of the known product(s) in which the  
26 component is used;

27 (D) The due date and actual date for completing development and introduction into the  
28 California marketplace of the selected alternative(s), if any;

29 (E) The regulatory response(s), if any;

30 (F) The applicable section(s) in this article specifying the regulatory response(s);

31 (G) The implementation due date(s), and the actual implementation date(s), for the  
32 regulatory response(s); and

33 (H) Other information provided to the Department under subsections (a) through (c).

34 (2) The Department shall also include in the Regulatory Response Summary the  
35 information specified in paragraphs (1)(A) through (1)(D) for each exemption granted by the  
36 Department under section 69506.449.

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

## 40 41 **Article 7. Dispute Resolution Processes**

**§ 69507. Dispute Resolution.**

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

~~(b)~~—(b) Exhaustion of Administrative Remedies. The procedures set out in this article are required for resolving disputes arising under this chapter. If the responsible entity fails to follow the procedures specified in this article for disputes subject to this article, it waives its right to further contest the disputed issue ~~administratively~~.

(c) AScope. Notwithstanding any other provision of this chapter, a decision made by the Department under article 2, 4, or 409 is not subject to dispute resolution under this article.

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

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

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

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

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

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

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

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

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

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

- 1 (1) The original statement of dispute;
- 2 (2) Supporting ~~documents~~information; and
- 3 (3) Copies of responses prepared by the Department.
- 4 (b) ~~The~~Deadline for Filing an Appeal. A responsible entity appealing a Department
- 5 decision shall file the appeal with the Department's Director within thirty (30) days after
- 6 completion of the informal dispute resolution process under section 69507.1.
- 7 (c) Decision on Appeal. The Director or designee shall issue a decision granting or
- 8 denying the relief sought, in whole or in part, or a notice of ongoing review, within sixty (60)
- 9 days after receipt of the request under this section. If the relief sought is denied, the decision
- 10 by the Department must:
- 11 (1) Contain a short and plain description of the basis for denial of the request for further
- 12 administrative review; and
- 13 (2) Specify the date by which the responsible entity ~~shall~~must comply with the
- 14 requirements of this chapter that were in dispute.
- 15 (d) Finality of Decision. A decision issued under subsection (c) is the Department's final
- 16 decision and is not subject to additional administrative dispute resolution.
- 17 (e) Notice of Ongoing Review. The Department shall specify in a notice of ongoing
- 18 review the estimated date by which the Department expects to issue a decision granting or
- 19 denying the relief sought. The Department shall take into account its available resources and
- 20 the complexity of the issues raised in the appeal in estimating the date for issuance of the final
- 21 decision.

22

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

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

25

26 **§ 69507.3. Formal Dispute Resolution Procedures.**

27 For all disputes regarding a decision made by the Department under ~~sections 69506.5,~~

28 ~~69506.6, 69506.7, 69506.9, 69506.10, and 69506.11~~article 6, the procedures specified in

29 sections 69507.4 through 69507.6 shall apply in lieu of the procedures set forth in sections

30 69507.1 and 60507.2.

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

36 Within thirty (30) days of a responsible entity receiving a final regulatory response

37 determination notice from the Department under ~~section 69506.5, 69506.7,~~

38 ~~69506.9, 69506.10, or 69506.11~~, the responsible entity may submit a Request for Review to

39 the Department, requesting review of such determination. If a Request for Review is not filed

40 within this time period, the Department's determination is final and is not eligible for any

41 administrative dispute resolution procedures under this article.

42

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

3  
4 **§ 69507.5. Contents of Requests for Review.**

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

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

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

15 (a) Decision Time Frame. Within sixty (60) days following the filing of a Request for  
16 Review under section 69507.4, the Department shall issue an order either granting or denying  
17 the Request for Review, or a notice of ongoing review.

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

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

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

25 (c) Briefing Schedule. An order granting review must specify a schedule for briefing of  
26 the issues by the responsible entity and the Department.

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

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

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

39 (e) Notice of Ongoing Review. The Department shall specify in a notice of ongoing  
40 review the estimated date by which the Department expects to issue an order under  
41 subsection (a) or (d), whichever is applicable. The Department shall take into account its

1 available resources and the complexity of the issues raised in the Request for Review in  
2 estimating the date for issuance of the order.

3 (f) Recusal of Staff. No Department staff that participated in the decision that is the  
4 subject of the Request for Review filed under section 69507.4 may participate in decision-  
5 making or review of decisions made under this section.

6 (g) (g) Limits on Intra-Departmental Communications. No Department staff participating  
7 in decision-making or review of decisions made under this section may have communications  
8 about the Request for Review with the Department staff that participated in the decision that is  
9 the subject of the Request for Review filed under section 69507.4, unless the Department  
10 simultaneously communicates with the responsible entity or its representative regarding the  
11 issues under discussion with Department staff.

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

15  
16 **Article 8.—~~Accreditation Bodies and Certified Assessors~~ Audits**

17  
18 **§ 69508. ~~Qualifications and Certification for Assessors.~~**

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

21 ~~(1) Possess a Bachelor's degree with a major in a scientific or engineering field from an~~  
22 ~~accredited college or university; and~~

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

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

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

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

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

38 ~~(A) Complete at least 20 hours of continuing education during each two-year~~  
39 ~~accreditation period, as required and provided by, or verified by, the accreditation body from~~  
40 ~~which the assessor will seek re-certification upon expiration of their current certification.~~  
41 ~~Continuing education shall be education and/or training focused on one or more aspects of~~

1 conducting AAs or closely related topics. At least two (2) hours of continuing education must  
2 be in professional ethics;

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

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

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

13 (c) Successful completion of an approved challenge test developed by the accreditation  
14 body may be used in lieu of the classroom training requirements specified in section  
15 69508.2(c)(4) and written and practical tests specified in section 69508.2(c)(5) for applicants  
16 who meet the competency requirements and/or possess on-the-job training equivalent to that  
17 specified in section 69508.2(c)(4)(A) through (E).

18 (d) If the Department revokes, under subsection (g)(2), (g)(3), or (g)(4) of section  
19 69508.3, the designation of the accreditation body from which the assessor obtained  
20 accreditation, the assessor shall apply for re-certification from another accreditation body no  
21 later than sixty (60) days after information concerning the revocation is posted on the  
22 Department's website.

23 (e) An assessor's certificate shall be subject to reprimand, suspension, probation, or  
24 revocation by the accreditation body or the Department, or both, for failure to comply with the  
25 requirements of this chapter, or if the Department or the accreditation body finds the assessor  
26 has engaged in activities governed by this chapter in a manner that is negligent, fraudulent, or  
27 otherwise unethical. The accreditation body shall provide to the Department the name of, and  
28 contact information for, any assessor whose certification is revoked, suspended, placed on  
29 probation, or revoked by the accreditation body, and an explanation of the reasons for the  
30 decision.

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

34 (g)(1) A certified assessor may not be in responsible charge of conducting an AA and/or  
35 preparing a Preliminary or Final AA Report, if the certified assessor has an ownership interest  
36 in the responsible entity whose product is the subject of the AA. For purposes of this  
37 subsection, an ownership interest exists if the certified assessor, or his/her spouse, child, or  
38 parent holds a position as an officer or director of the responsible entity or has an equity stake  
39 in the responsible entity in the amount of ten thousand dollars (\$10,000) or more.

40 (2) Paragraph (1) applies only to third-party certified assessors that are in responsible  
41 charge of conducting an AA and/or preparing a Preliminary or Final AA Report under a  
42 contractual agreement with the responsible entity.

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

4  
5 **§ 69508.1. — Qualifications for Accreditation Bodies.**

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

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

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

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

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

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

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

22 1. — Fundamental processes in natural and engineered systems, including inter-media  
23 transport of contaminants between environmental compartments, and chemical and  
24 biochemical transformations within these compartments;

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

28 3. — Topics concerning the environment, including ecology, population dynamics,  
29 pollution micro-biology, aquatic biology, bio-concentration, limnology, stream sanitation,  
30 nutrient cycles, and toxicology atmospheric chemistry.

31 (B) — Principles of green chemistry, which shall include both of the following:

32 1. — The study of all aspects and types of chemical processes, including synthesis,  
33 catalysis, analysis, monitoring, separations and reaction conditions that reduce adverse  
34 impacts on public health and the environment through the reduction in, or elimination of, the  
35 use or generation of hazardous materials; and

36 2. — Pollution prevention and cleaner production methods.

37 (C) — Project life cycle management, which shall include both of the following:

38 1. — Environmental management of engineering projects from the research through the  
39 development, operation, maintenance and ultimate disposal phases; and

40 2. — Impacts of exploitation of raw materials and energy resources, and transportation;  
41 pollution from use and ultimate disposal of products; economics of environmental resources.

42 (D) — Public health, which shall include all of the following:

- 1 1.—— Impacts to sensitive populations, including the study of risk and factors that influence  
2 the distribution of disease in subpopulations;
- 3 2.—— Examination of the basic principles of epidemiology, their application to specific  
4 public health situations, and criteria for critically evaluating epidemiology studies; and
- 5 3.—— Methods of evaluating the causative factors of disease and the assessment of  
6 epidemiological study designs and research activities.
- 7 (E)—— Professional ethics, which shall include all of the following:
  - 8 1.—— Analysis of ethical principles and dilemmas that may arise during the conduct and  
9 preparation of the AA and AA Reports;
  - 10 2.—— Examination of the services provided and approaches to providing impartial, fair, and  
11 equitable services dedicated to the protection of public health and the environmental;
  - 12 3.—— Fundamental standards that protect the safety, health, and welfare of the public;
  - 13 4.—— Standards and practices to ensure that services are performed only in areas of  
14 competency, statements are made only in an objective and truthful manner, the assessor acts  
15 for each employer or client as a faithful agent or trustee, and deceptive acts are avoided; and
  - 16 5.—— Rules of practice and professional obligations that support the above.
- 17 (F)—— Toxicology and comparative risk assessment, which shall include all of the following:
  - 18 1.—— The toxic effects that hazardous chemicals have on biological systems, including  
19 dose-response curves, mechanisms of toxicity, carcinogenesis, and reproductive hazards;
  - 20 2.—— The risks associated with exposure to hazardous chemicals and instruction on how  
21 risk assessment fits into the risk management processes; and
  - 22 3.—— Examination of common toxicological effects of chemicals on biological systems  
23 through inclusion of relevant case studies.
- 24 (G)—— Occupational health and safety, which shall include all of the following:
  - 25 1.—— The principles, practices, and methods for identifying, evaluating, preventing, and  
26 reducing workplace chemical hazards;
  - 27 2.—— Methods for measuring and evaluating chemical-related hazardous workplace  
28 conditions; and
  - 29 3.—— Federal and State statutory and regulatory requirements regarding occupational  
30 health protection.
- 31 (6)—— The ability to teach, and experience teaching, or have access to subject matter  
32 experts with the ability to teach, and experience teaching, in two or more of the following  
33 subject areas:
  - 34 (A)—— Economics and financial planning for innovation, which shall include both of the  
35 following:
    - 36 1.—— An introduction to the core principles of economics, finance, and accounting to  
37 understand the steps necessary to bring green chemistry innovations to market; and
    - 38 2.—— Exploration of other relevant topics in business administration and sustainability,  
39 including business models, ecological economics, entrepreneurship and service design.
  - 40 (B)—— Environmental law, which shall include all of the following:
    - 41 1.—— Federal statutory and regulatory requirements regarding public health and  
42 environmental protection;

1       2.—— State statutory and regulatory requirements regarding public health and  
2 environmental protection; and

3       3.—— Principles of public policy.

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

5       1.—— Advances made in materials science; and

6       2.—— Case studies in lessons learned which must include the principles of design,  
7 manufacture, and use of classes of materials such as metals, ceramics, semiconductors,  
8 polymers, and biomaterials that addresses fundamental energy, environmental, health,  
9 economic, and manufacturing issues relating to those materials.

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

11       1.—— The examination and fundamental qualities, attributes and competencies to manage  
12 resources in a responsible manner, with minimal impact on natural resources and climate;

13       2.—— Identification of scientific methods for measuring and auditing the effectiveness of  
14 eco-friendly practices that make improvements on the amount of resources expended on  
15 energy, transportation, water use, recycling, and natural resources through the life cycle of  
16 products, technologies, and processes; and

17       3.—— Identification skills and tools to identify emerging issues and opportunities most  
18 pertinent to specific industries, establishing appropriate goals, developing and integrating new  
19 strategies, and measuring performance.

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

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

25  
26 NOTE: Authority cited: Sections 25253 and 58012, Health and Safety Code. Reference:  
27 Sections 25253 and 25257, Health and Safety Code.

28  
29 **§ 69508.2.—— Accreditation Body Designation Requirements.**

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

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

34       (1)—— The name of, and contact information for, the person(s) submitting the application;

35       (2)—— A summary of the qualifications of the individuals, meeting the requirements  
36 specified in section 69508.1, including education, experience, and areas of subject matter  
37 competency, that are available within, or to, the entity for training and certifying individuals to  
38 perform AAs;

39       (3)—— Documentation that the entity meets all of the qualification requirements specified in  
40 section 69508.1; and

41       (4)—— A detailed description of the accreditation program demonstrating that the program  
42 meets the requirements specified in subsection (c), including all of the following information:

1       (A) ~~—The entity's training program for certification of assessors, including for each course~~  
2 ~~the title, content description, hours, and exam plan;~~

3       (B) ~~—Demonstrated qualifications and areas of expertise of the individuals responsible for~~  
4 ~~developing the entity's training curriculum, as evidenced by education, experience,~~  
5 ~~professional licenses, registrations, or other relevant credentials; and~~

6       (C) ~~—The entity's continuing education curriculum for re-accreditation of assessors,~~  
7 ~~including for each course the title, content description, hours, and exam plan.~~

8       (c) ~~—Each accreditation body shall include in its program, at a minimum, all of the~~  
9 ~~following:~~

10       (1) ~~—Admission Procedures. A summary of application requirements and admission~~  
11 ~~procedures for certification and certification renewal must be included. Required information~~  
12 ~~includes all of the following:~~

13       (A) ~~—The applicant's name and contact information;~~

14       (B) ~~—The applicant's educational experience, which must meet the requirements of~~  
15 ~~section 69508(a)(1) and must be substantiated by submittal of transcripts or other equivalent~~  
16 ~~records;~~

17       (C) ~~—The applicant's employment and other experience history, which must meet the~~  
18 ~~requirements of section 69508(a)(2) and for which references must be provided;~~

19       (D) ~~—The professional licenses, registrations, or other relevant credentials that the~~  
20 ~~applicant possesses;~~

21       (E) ~~—Documentation of completion of continuing education required under section~~  
22 ~~69508(b)(2), if the application is for certification renewal; and~~

23       (F) ~~—A signed and dated certification statement that reads: "I certify under penalty of~~  
24 ~~perjury that the information I have entered on this application is true and complete to the best~~  
25 ~~of my knowledge. I further understand that any false or incomplete statements may result in~~  
26 ~~my disqualification as a certified alternatives assessor. I authorize the employers and~~  
27 ~~educational institutions identified on this application to release any information they may have~~  
28 ~~concerning my employment or education to the accreditation body with which this application is~~  
29 ~~filed and to the State of California."~~

30       (2) ~~—Verification Procedures. Written procedures must be included for verifying an~~  
31 ~~applicant's qualifying education and experience, including verification of fulfillment of~~  
32 ~~continuing education requirements.~~

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

37       (4) ~~—Training of Assessors. The training program must include classroom and on-the-job~~  
38 ~~assistance and/or training of applicants. The training must incorporate classroom and/or on-~~  
39 ~~the-job training in analysis of information and practical application of principles, at a minimum,~~  
40 ~~in all of the following:~~

41       (A) ~~—The requirements of this chapter, with an emphasis on the requirements of articles~~  
42 ~~5, 6, and 10;~~

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

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

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

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

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

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

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

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

~~1. The assessor's name;~~

~~2. The certificate number;~~

~~3. The certificate issuance date and expiration date;~~

~~4. The name of, and contact information for, the accreditation body issuing the certificate;~~

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

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

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

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

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

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

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

~~(B) Provide true and accurate analyses; and~~

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

4 (8) — Record Maintenance Program.

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

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

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

18  
19 **§ 69508.3. — Accreditation Body Designation Process.**

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

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

29 (c) — A designation as an accreditation body expires after a period of five (5) years,  
30 except that it may be renewed upon application by the accreditation body, under section  
31 69508.2, not later than ninety (90) days before expiration of the existing designation. Timely  
32 applications for renewal of designation, meeting the requirements of section 69508.2, shall  
33 extend the expiring designation until the Department makes a determination on the renewal  
34 application.

35 (d) — If the Department determines an accreditation body is negligently or willfully in  
36 violation of this chapter, the Department shall revoke the entity's designation as an  
37 accreditation body for a period of at least ten (10) years. After this period, the accreditation  
38 body may reapply to be designated as an accreditation body.

39 (e) — An accreditation body may not claim trade secret protection for its general admission  
40 process, curriculum, and educational approach.

41 (f) — The Department may periodically review the performance of an accreditation body to  
42 determine whether the accreditation body is in compliance with the requirements of this

1 ~~chapter. This review may include records review and/or interviews of assessors participating~~  
2 ~~in the training and certification program.~~

3 ~~(g) The Department shall revoke its designation of an accreditation body if one or more~~  
4 ~~of the following occurs:~~

5 ~~(1) The designation period has lapsed, and the accreditation body has not submitted a~~  
6 ~~timely renewal application that meets the requirements of section 69508.2;~~

7 ~~(2) A substantial number of individuals certified by the accreditation body as assessors~~  
8 ~~are found by the Department to be in violation of this chapter;~~

9 ~~(3) The Department finds that the accreditation body has significantly deviated from the~~  
10 ~~documentation submitted to the Department under section 69508.2, or is out of compliance~~  
11 ~~with the applicable requirements of this article; and/or~~

12 ~~(4) The Department finds the accreditation body to have carried out its activities~~  
13 ~~governed by this chapter in a manner that is negligent, fraudulent, or is otherwise unethical.~~

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

17  
18 **~~§ 69508.4. Filing a Complaint.~~**

19 ~~(a) A person may file a complaint alleging a violation of this chapter by an accreditation~~  
20 ~~body or a certified assessor. The complaint must include both of the following:~~

21 ~~(1) The name of, and contact information for, both of the following:~~

22 ~~(A) The accreditation body or certified assessor that is the subject of the complaint; and~~

23 ~~(B) The name of the complainant, unless filing anonymously.~~

24 ~~(2) A description of the complaint, including the particular requirements that are alleged~~  
25 ~~to have been violated and the facts which the complainant relies upon to support the alleged~~  
26 ~~violation.~~

27 ~~(b) Within thirty (30) days of receiving a complaint, the Department shall review the~~  
28 ~~complaint and determine if the complaint includes the items specified in subsection (a). If the~~  
29 ~~Department determines that a complaint is complete, the Department shall notify the~~  
30 ~~complainant, if not submitted anonymously, that the Department will conduct further review to~~  
31 ~~determine whether a violation has occurred. If the Department determines that the complaint~~  
32 ~~is incomplete, it shall notify the complainant, unless submitted anonymously, and specify the~~  
33 ~~basis for the determination. Anonymous complaints lacking sufficient information will be~~  
34 ~~dismissed.~~

35 ~~(c) If the complaint substantially complies with the requirements of this section, the~~  
36 ~~Department shall serve a copy to each subject of the complaint, together with an order~~  
37 ~~requiring that the complaint be answered by the subject within thirty (30) days after the date of~~  
38 ~~service.~~

39 ~~(d) The Department shall review the information and documentation in the response~~  
40 ~~from the subject of the complaint and may refer items to external subject matter experts for~~  
41 ~~review and recommendations.~~

1 ~~(e) If the Department determines there is insufficient evidence to determine whether or~~  
2 ~~not a violation has occurred, the Department shall close the complaint.~~

3 ~~(f) If the Department determines that a violation has occurred, the Department shall:~~

4 ~~(1) Warn the subject of the complaint by issuing a citation, and obtain compliance;~~

5 ~~(2) Pursue the violations under the Administrative Procedure Act; and/or~~

6 ~~(3) Refer the matter to the Attorney General or appropriate district attorney.~~

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

## 10 11 **Article 9. Audits**

### 12 13 **§ 69509. Audit of Materials Submitted to the Department and Regulatory Responses.**

14 (a) Audits. The Department may audit any information compiled, and/or submitted to  
15 the Department, under this chapter. Information the Department may audit includes, but is not  
16 limited to, AAs, AA Reports, information related to notifications submitted under this chapter,  
17 and implementation of regulatory responses.

18 (b) Scope. The scope of any audit may include, but is not limited to, an examination of  
19 one or more of the following:

20 (1) Compliance with article 5 requirements;

21 (2) Information quality and adequacy of analysis;

22 (3) Implementation of ~~the selected alternative~~alternatives, if applicable; and/or

23 (4) Compliance with the regulatory response(s) imposed under article 6, if any.

24 (c) Upon completion of an audit, the Department shall ~~notify~~provide notice to the  
25 responsible entity(ies) of the audit ~~finding~~findings and the process to dispute audit findings.

26  
27 NOTE: Authority cited: Sections 25253, and 58012, Health and Safety Code. Reference:  
28 Article 8 of Division 4.5 of Chapter 20 and Section 25253, Health and Safety Code.

## 29 30 **Article 109. Trade Secret Protection**

### 31 32 **§ ~~69510~~69509. Assertion of a Claim of Trade Secret Protection.**

33 (a) Substantiation Requirements. A person who asserts a claim of trade secret  
34 protection with respect to ~~documents or~~ information submitted to the Department under this  
35 chapter will receive a written request from the Department to furnish the Department with all of  
36 the following supporting information:

37 (1) The identity of the person asserting the claim;

38 (2) A brief description of the nature of the information for which trade secret protection is  
39 being claimed;

40 (3) The extent to which the information is known by employees or others involved with  
41 the facility or business of the person, and whether or not those individuals are bound by non-  
42 disclosure agreements;

1 (4) The extent to which the information is known outside of the facility or business of the  
2 person, and whether or not individuals with such knowledge are bound by non-disclosure  
3 agreements;

4 (5) The measures taken to restrict access to and safeguard the information, and  
5 whether or not the person plans to continue utilizing such measures;

6 (6) The estimated value of the information to the person and the person's competitors;

7 (7) The estimated amount of effort and/or money expended by the person in developing  
8 the information;

9 (8) The estimated ease or difficulty with which the information ~~could~~can be properly  
10 acquired or duplicated by others, including for any chemical claimed as trade secret, an  
11 explanation of why the chemical identity is not readily discoverable through reverse  
12 engineering;

13 (9) Copies of, or references to, any pertinent trade secret or other confidentiality  
14 determinations previously made by the Department or other public agencies;

15 (10) A description of the nature and extent of harm that ~~would~~could be caused if the  
16 information were made public, including an explanation of the causal relationship between  
17 disclosure and the harmful effects claimed;

18 (11) The signature of the person's general counsel or other executive with knowledge of  
19 the preparation of the substantiating information, certifying ~~under penalty of perjury and subject~~  
20 ~~to the provisions of~~as required by section 69501.3, and based upon the knowledge and belief  
21 of the signatory, that:

22 (A) The substantiating information is true, accurate, and complete;

23 (B) The information for which trade secret protection is claimed is not otherwise publicly  
24 available; and

25 (C) There is a reasonable basis to assert trade secret protection for the information so  
26 claimed; and

27 (12) Contact information for the individual to be contacted if ~~part~~any of the claimed  
28 information is requested to be disclosed under the California Public Records Act: (commencing  
29 with Government Code section 6250).

30 (b) Streamlining of Submittal. The substantiating information required under  
31 subsections (a)(1) through (a)(10) shall be provided for each individual trade secret claim,  
32 although such information may be incorporated by reference to apply to multiple claims, as  
33 appropriate. The requirements of subsections (a)(11) and (a)(12) may be met once for all  
34 claims submitted at one time.

35 (c) Documentation. A person who asserts a claim of trade secret protection shall also,  
36 at the time of submission, provide the Department with both of the following:

37 (1) ~~A(1)~~ Except where expressly prohibited by federal law, or by a nondisclosure  
38 agreement whose relevant text is provided to the Department, a complete copy of the  
39 documentation being submitted, which shall include the information for which trade secret  
40 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) Marking of Documents. A person who asserts a claim of trade secret protection  
5 shall make such assertion at the time of submission by marking the words "Trade Secret"  
6 conspicuously on each page containing the information for which trade secret protection is  
7 claimed. If no claim of trade secret protection is made at the time of submission, the  
8 Department may make the submitted information available in full to the public without further  
9 notice.

10 (e) ~~—(e) Provision of Separate Copies.~~ If the documentation supporting a claim of trade  
11 secret protection contains information that is itself subject to a claim of trade secret protection,  
12 such supporting documentation shall be separately supplied in both complete and redacted  
13 form as required by subsection (c), and marked as required by subsection (d), but shall not  
14 itself require further supporting documentation. Such documentation shall be separate from  
15 documentation used to comply with other provisions of this chapter.

16 (f) Hazard Trait Submissions. Except as specified in subsection (g), trade secret  
17 protection may not be claimed for any ~~health, safety, or environmental information contained in~~  
18 ~~any hazard trait submission or for~~ any chemical identity information associated with a hazard  
19 trait submission.

20 (g) ~~—Trade secret protection may be claimed for the chemical.~~ Chemical Identity Masking  
21 When a Patent is Pending.

22 (1) The precise identity of a chemical that is the subject of a hazard trait submission  
23 may be temporarily masked only if the subject of claim that chemical is a proposed an  
24 alternative to a Chemical of Concern in a Priority Product considered or proposed in an  
25 Alternatives Analysis, and the claimant does all of the following: a patent application is pending  
26 for the chemical or its contemplated use in the product. Such masking shall be authorized only  
27 until the patent application has been granted or denied. The person claiming the trade secret  
28 shall notify the Department in writing within thirty (30) days after the patent application has  
29 been granted or denied.

30 (1) ~~—Demonstrates to the Department's satisfaction that the chemical that is the subject~~  
31 ~~of the claim is a new chemical or a new use of an existing chemical;~~

32 (2) ~~—Provides the Department with sufficient health, safety, and environmental data on~~  
33 ~~the chemical subject to the claim to demonstrate, to the Department's satisfaction, that it is~~  
34 ~~substantially safer than the existing Chemical of Concern in the Priority Product; and~~

35 (3) ~~—Complies with the substantiation requirements of subsections (a)(1) through (a)(12).~~

36 (h) (2) Any person making a claim of trade secret protection for the temporarily masking  
37 the precise identity of a chemical under subsection (g) paragraph (1) shall provide the  
38 Department with a non-confidential description of the nature of the chemical that is as specific  
39 as possible, consistent with the claim of trade secret protection.

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

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

1  
2 **§ 6951069509.1. Department Review of Claims of Trade Secret Protection.**

3 (a) ~~(a)~~ Review of Support for Trade Secret Designation. Upon receipt of  
4 information submitted under this chapter that contains information identified as being subject to  
5 trade secret protection, or at any time thereafter, the Department may review the trade secret  
6 claim and supporting information for compliance with the requirements of this article.

7 ~~(b)~~ (b) Additional Information Requirements.

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

11 (A) ~~Notify~~ Provide notice to the submitter of the Department's finding of insufficiency;  
12 and the basis therefor;

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

14 ~~(C) Provide an explanation as to why the Department has determined the information to~~  
15 ~~be insufficient; and~~

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

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

23 (c) Notice to Submitter. If the Department determines that information provided in  
24 support of a request for trade secret protection does not meet the substantive criteria for trade  
25 secret designation, the Department shall ~~notify~~ provide notice to the submitter by certified mail  
26 of its determination and that the information claimed to be trade secret will be considered a  
27 public record subject to disclosure by the Department thirty (30) days after such notice is  
28 mailed. During this 30-day period, the submitter may seek judicial review by filing an action for  
29 a preliminary injunction and/or declaratory relief.

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

34  
35 NOTE: Authority cited: Sections 25252, 25253, and 58012, Health and Safety Code.

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

37  
38 **Article 1110. Severability**

39  
40 **§ 6951169510. Severability.**

41 If any provision(s) of this chapter, or the application thereof to any person or circumstances,  
42 is held invalid, such invalidity shall not affect other provisions or applications of this chapter

1 that can be given effect without the invalid provision or application, and to that end the  
2 provisions of this chapter are severable.

3

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

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

6

7 **Article 1211. [Reserved]**

8

9 **§§ 6951269511 -- 69599. [Reserved]**