

Attachment 3-1

Statutes

Health and Safety Code sections 25251 – 25257.1
Article 14. Green Chemistry

- SB 509 **25251.** For purposes of this article, the following definitions shall apply:
- (a) "Clearinghouse" means the Toxics Information Clearinghouse established pursuant to Section 25256.
 - (b) "Council" means the California Environmental Policy Council established pursuant to subdivision (b) of Section 71017¹ of the Public Resources Code.
 - (c) "Office" means Office of Environmental Health Hazard Assessment.
 - (d) "Panel" means the Green Ribbon Science Panel established pursuant to Section 25254
 - (e) "Consumer product" means a product or part of the product that is used, brought, or leased for use by a person for any purposes. "Consumer product" does not include any of the following:
 - (1) A dangerous drug or dangerous device as defined in Section 4022² of the Business of Professions Code.
 - (2) Dental restorative materials as defined in subdivision (b) of Section 1648.20³ of the Business and Professions Code.
 - (3) A device as defined in Section 4023⁴ of the Business of Professions Code.
 - (4) A food as defined in subdivision (a) of Section 109935⁵.
 - (5) The packaging associated with any of the items specified in paragraph (1), (2), or (3).
 - (6) A pesticide as defined in Section 12753⁶ of the Food and Agricultural Code or the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. Sec. 136 and following).
 - (7) Mercury-containing lights defined as mercury containing lamps, bulbs, tubes, or other electric devices that provide functional illumination.
 - (f) This section shall remain in effect only until December 31, 2011, and as of that date is repealed, unless a later enacted statute, that is enacted before December 31, 2011, deletes or extends that date.

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 - (1) A dangerous drug or dangerous device as defined in Section 4022 of the Business of Professions Code.
 - (2) Dental restorative materials as defined in subdivision (b) of Section 1648.20 of the Business and Professions Code.
 - (3) A device as defined in Section 4023 of the Business of Professions Code.
 - (4) A food as defined in subdivision (a) of Section 109935.

(5) The packaging associated with any of the items specified in paragraph (1), (2), or (3).

(6) A pesticide as defined in Section 12753 of the Food and Agricultural Code or the Federal Insecticide, Fungicide and Rodenticide (7 United States Code Sections 136 and following).

(f) This section shall become effective on January 1, 2012.

AB 1879 25252. (a) On or before January 1, 2011, the department shall adopt regulations to establish a process to identify and prioritize those chemicals or chemical ingredients in consumer products that may be considered as being a chemical of concern, in accordance with the review process specified in Section 25252.5. The department shall adopt these regulations in consultation with the office and all appropriate state agencies and after conducting one or more public workshops for which the department provides public notice and provides an opportunity for all interested parties to comment. The regulations adopted pursuant to this section shall establish an identification and prioritization process that includes, but is not limited to, all of the following considerations:

(1) The volume of the chemical in commerce in this state.

(2) The potential for exposure to the chemical in a consumer product.

(3) Potential effects on sensitive subpopulations, including infants and children.

(b)(1) In adopting regulations pursuant to this section, the department shall develop criteria by which chemicals and their alternatives may be evaluated. These criteria shall include, but not be limited to, the traits, characteristics, and endpoints that are included in the clearinghouse data pursuant to Section 25256.1.

(2) In adopting regulations pursuant to this section, the department shall reference and use, to the maximum extent feasible, available information from other nations, governments, and authoritative bodies that have undertaken similar chemical prioritization processes, so as to leverage the work and costs already incurred by those entities and to minimize costs and maximize benefits for the state's economy.

(3) Paragraph (2) does not require the department, when adopting regulations pursuant to this section, to reference and use only the available information specified in paragraph (2).

AB 1879 25252.5. (a) Except as provided in subdivision (f), the department, in adopting the regulations pursuant to Sections 25252 and 25253, shall prepare a multimedia life cycle evaluation conducted by affected agencies and coordinated by the department, and shall submit the regulations and the multimedia life cycle evaluation to the council for review.

(b) The multimedia evaluation shall be based on the best available scientific data, written comments submitted by interested persons, and information collected by the department in preparation for adopting the regulations, and shall address, but is not limited to, the impacts associated with all the following:

(1) Emissions of air pollutants, including ozone forming compounds, particulate matter, toxic air contaminants, and greenhouse gases.

(2) Contamination of surface water, groundwater, and soil.

(3) Disposal or use of the byproducts and waste materials.

(4) Worker safety and impacts to public health.

(5) Other anticipated impacts to the environment.

(c) The council shall complete its review of the multimedia evaluation within 90 calendar days following notice from the department that it intends to adopt regulations. If the council determines that the proposed regulations will cause a significant adverse impact on the public health or the environment, or that alternatives exist that would be less adverse, the council shall recommend alternative measures that the department or

other state agencies may take to reduce the adverse impact on public health or the environment. The council shall make all information relating to its review available to the public.

(d) Within 60 days of receiving notification from the council of a determination of significant adverse impact, the department shall adopt revisions to the proposed regulation to avoid or reduce the adverse impact, or the affected agencies shall take appropriate action that will, to the extent feasible, mitigate the adverse impact so that, on balance, there is no significant adverse impact on public health or the environment.

(e) In coordinating a multimedia evaluation pursuant to subdivision (a), the department shall consult with other boards and departments within the California Environmental Protection Agency, the State Department of Public Health, the State and Consumer Services Agency, the Department of Homeland Security, the Department of Industrial Relations, and other state agencies with responsibility for, or expertise regarding, impacts that could result from the production, use, or disposal of consumer products and the ingredients they may contain.

(f) Notwithstanding subdivision (a), the department may adopt regulations pursuant to Sections 25252 and 25253 without subjecting the proposed regulation to a multimedia evaluation if the council, following an initial evaluation of the proposed regulation, conclusively determines that the regulation will not have any significant adverse impact on public health or the environment.

(g) For the purposes of this section, "multimedia life cycle evaluation" means the identification and evaluation of a significant adverse impact on public health or the environment, including air, water, or soil, that may result from the production, use, or disposal of a consumer product or consumer product ingredient.

AB 1879 **25253.** (a)(1) On or before January 1, 2011, the department shall adopt regulations pursuant to this section that establish a process for evaluating chemicals of concern in consumer products, and their potential alternatives, to determine how best to limit exposure or to reduce the level of hazard posed by a chemical of concern, in accordance with the review process specified in Section 25252.5. The department shall adopt these regulations in consultation with all appropriate state agencies and after conducting one or more public workshops for which the department provides public notice and provides an opportunity for all interested parties to comment.

(2) The regulations adopted pursuant to this section shall establish a process that includes an evaluation of the availability of potential alternatives and potential hazards posed by those alternatives, as well as an evaluation of critical exposure pathways. This process shall include life cycle assessment tools that take into consideration, but shall not be limited to, all of the following:

- (A) Product function or performance.
- (B) Useful life.
- (C) Materials and resource consumption.
- (D) Water conservation.
- (E) Water quality impacts.
- (F) Air emissions.
- (G) Production, in-use, and transportation energy inputs.
- (H) Energy efficiency.
- (I) Greenhouse gas emissions.
- (J) Waste and end-of-life disposal.
- (K) Public health impacts, including potential impacts to sensitive subpopulations, including infants and children.
- (L) Environmental impacts.

(M) Economic impacts.

(b) The regulations adopted pursuant to this section shall specify the range of regulatory responses that the department may take following the completion of the alternatives analysis, including, but not limited to, any of the following actions:

(1) Not requiring any action.

(2) Imposing requirements to provide additional information needed to assess a chemical of concern and its potential alternatives.

(3) Imposing requirements on the labeling or other type of consumer product information.

(4) Imposing a restriction on the use of the chemical of concern in the consumer product.

(5) Prohibiting the use of the chemical of concern in the consumer product.

(6) Imposing requirements that control access to or limit exposure to the chemical of concern in the consumer product.

(7) Imposing requirements for the manufacturer to manage the product at the end of its useful life, including recycling or responsible disposal of the consumer product.

(8) Imposing a requirement to fund green chemistry challenge grants where no feasible safer alternative exists.

(9) Any other outcome the department determines accomplishes the requirements of this article.

(c) The department, in developing the processes and regulations pursuant to this section, shall ensure that the tools available are in a form that allows for ease of use and transparency of application. The department shall also make every feasible effort to devise simplified and accessible tools that consumer product manufacturers, consumer product distributors, product retailers, and consumers can use to make consumer product manufacturing, sales, and purchase decisions.

AB 1879 25254. (a) In implementing this article, the department shall establish a Green Ribbon Science Panel. The panel shall be composed of members whose expertise shall encompass all of the following disciplines:

(1) Chemistry.

(2) Chemical engineering.

(3) Environmental law.

(4) Toxicology.

(5) Public policy.

(6) Pollution prevention.

(7) Cleaner production methods.

(8) Environmental health.

(9) Public health.

(10) Risk analysis.

(11) Materials science.

(12) Nanotechnology.

(13) Chemical synthesis.

(14) Research.

(15) Maternal and child health.

(b) The department shall appoint all members to the panel on or before July 1, 2009. The department shall appoint the members for staggered three-year terms, and may reappoint a member for additional terms, without limitation.

(c) The panel shall meet as often as the department deems necessary, with consideration of available resources, but not less than twice each year. The department shall provide for staff and administrative support to the panel.

(d) The panel meetings shall be open to the public and are subject to the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).

AB 1879 **25255.** The panel may take any of the following actions:

(a) Advise the department and the council on scientific and technical matters in support of the goals of this article of significantly reducing adverse health and environmental impacts of chemicals used in commerce, as well as the overall costs of those impacts to the state's society, by encouraging the redesign of consumer products, manufacturing processes, and approaches.

(b) Assist the department in developing green chemistry and chemicals policy recommendations and implementation strategies and details, and ensure these recommendations are based on a strong scientific foundation.

(c) Advise the department and make recommendations for chemicals the panel views as priorities for which hazard traits and toxicological end-point data should be collected.

(d) Advise the department in the adoption of regulations required by this article.

(e) Advise the department on any other pertinent matter in implementing this article, as determined by the department.

SB 509 **25256.** The department shall establish the Toxics Information Clearinghouse, which shall provide a decentralized, Web-based system for the collection, maintenance, and distribution of specific chemical hazard trait and environmental and toxicological end-point data. The department shall make the clearinghouse accessible to the public through a single Internet Web portal, and, shall, to the maximum extent possible, operate the clearinghouse at the least possible cost to the state.

SB 509 **25256.1.** On or before January 1, 2011, the office shall evaluate and specify the hazard traits and environmental and toxicological end-points and any other relevant data that are to be included in the clearinghouse. The office shall conduct this evaluation in consultation with the department and all appropriate state agencies, after one or more public workshops, and an opportunity for all interested parties to comment. The office may seek information from other states, the federal government, and other nations in implementing this section.

SB 509 **25256.2.** (a) The department shall develop requirements and standards related to the design of the clearinghouse and data quality and test methods that govern the data that is eligible to be available through the clearinghouse.

(b) The department may phase in the access to eligible information and data in the clearinghouse as that information and data become available.

(c) The department shall ensure the clearinghouse is capable of displaying updated information as new data becomes available.

SB 509 **25256.3.** The department shall consult with other states, the federal government, and other nations to identify available data related to hazard traits and environmental and toxicological end-points, and to facilitate the development of regional, national, and international data sharing arrangements to be included in the clearinghouse.

AB 1879 **25257.** (a) A person providing information pursuant to this article may, at the time of submission, identify a portion of the information submitted to the department as a trade secret and, upon the written request of the department, shall provide support for the

claim that the information is a trade secret. Except as provided in subdivision (d), a state agency shall not release to the public, subject information supplied pursuant to this article that is a trade secret, and that is so identified at the time of submission, in accordance with Section 6254.7⁷ of the Government Code and Section 1060⁸ of the Evidence Code.

(b) This section does not prohibit the exchange of a properly designated trade secret between public agencies, if the trade secret is relevant and necessary to the exercise of the agency's jurisdiction and the public agency exchanging the trade secrets complies with this section. An employee of the department that has access to a properly designated trade secret shall maintain the confidentiality of that trade secret by complying with this section.

(c) Information not identified as a trade secret pursuant to subdivision (a) shall be available to the public unless exempted from disclosure by other provisions of law. The fact that information is claimed to be a trade secret is public information.

(d)(1) Upon receipt of a request for the release of information that has been claimed to be a trade secret, the department shall immediately notify the person who submitted the information. Based on the request, the department shall determine whether or not the information claimed to be a trade secret is to be released to the public.

(2) The department shall make the determination specified in paragraph (1), no later than 60 days after the date the department receives the request for disclosure, but not before 30 days following the notification of the person who submitted the information.

(3) If the department decides that the information requested pursuant to this subdivision should be made public, the department shall provide the person who submitted the information 30 days' notice prior to public disclosure of the information, unless, prior to the expiration of the 30-day period, the person who submitted the information obtains an action in an appropriate court for a declaratory judgment that the information is subject to protection under this section or for a preliminary injunction prohibiting disclosure of the information to the public and promptly notifies the department of that action.

(e) This section does not authorize a person to refuse to disclose to the department information required to be submitted to the department pursuant to this article.

(f) This section does not apply to hazardous trait submissions for chemicals and chemical ingredients pursuant to this article.

SB 509

25257.1. (a) This article does not limit and shall not be construed to limit the department's or any other department's or agency's existing authority over hazardous materials.

(b) This article does not authorize the department to supersede the regulatory authority of any other department or agency.

(c) The department shall not duplicate or adopt conflicting regulations for product categories already regulated or subject to pending regulation consistent with the purposes of this article.

End Notes

¹ Public Resources Code

71017. (a) "Council" means the California Environmental Policy Council.

(b) The council is hereby created and consists of the following members or their designees:

- (1) The Secretary for Environmental Protection.
- (2) The Director of Pesticide Regulation.
- (3) The Director of Toxic Substances Control.
- (4) The Chairperson of the State Air Resources Board.
- (5) The Chairperson of the State Water Resources Control Board.
- (6) The Director of the Office of Environmental Health Hazard Assessment.
- (7) The Chairperson of the California Integrated Waste Management Board.

² Business and Profession Code

4022. "Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use in humans or animals, and includes the following:

(a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without prescription," "Rx only," or words of similar import.

(b) Any device that bears the statement: "Caution: federal law restricts this device to sale by or on the order of a _____," "Rx only," or words of similar import, the blank to be filled in with the designation of the practitioner licensed to use or order use of the device.

(c) Any other drug or device that by federal or state law can be lawfully dispensed only on prescription or furnished pursuant to Section 4006.

³ Business and Profession Code

1648.20. (a) This article shall not apply to any surgical, endodontic, periodontic, or orthodontic dental procedure in which dental restorative materials are not used.

(b) For purposes of this article, "dental restorative materials" means any structure or device placed into a patient's mouth with the intent that it remain there for an indefinite period beyond the completion of the dental procedure, including material used for filling cavities in, or rebuilding or repairing the organic structure of, a tooth or teeth, but excluding synthesized structures or devices intended to wholly replace an extracted tooth or teeth, such as implants.

⁴ Business and Profession Code

4023. "Device" means any instrument, apparatus, machine, implant, in vitro reagent, or contrivance, including its components, parts, products, or the byproducts of a device, and accessories that are used or intended for either of the following:

(a) Use in the diagnosis, cure, mitigation, treatment, or prevention of disease in a human or any other animal.

(b) To affect the structure or any function of the body of a human or any other animal.

For purposes of this chapter, "device" does not include contact lenses, or any prosthetic or orthopedic device that does not require a prescription.

⁵ Health and Safety Code

109935. "Food" means either of the following:

(a) Any article used or intended for use for food, drink, confection, condiment, or chewing gum by man or other animal.

(b) Any article used or intended for use as a component of any article designated in subdivision (a).

⁶ Food and Agricultural Code

12753. "Pesticide" includes any of the following:

(a) Any spray adjuvant.

(b) Any substance, or mixture of substances which is intended to be used for defoliating plants, regulating plant growth, or for preventing, destroying, repelling, or mitigating any pest, as defined in Section 12754.5, which may infest or be detrimental to vegetation, man, animals, or households, or be present in any agricultural or nonagricultural environment whatsoever.

⁷ Government Code

6254.7. (a) All information, analyses, plans, or specifications that disclose the nature, extent, quantity, or degree of air contaminants or other pollution which any article, machine, equipment, or other contrivance will produce, which any air pollution control district or air quality management district, or any other state or local agency or district, requires any applicant to provide before the applicant builds, erects, alters, replaces, operates, sells, rents, or uses the article, machine, equipment, or other contrivance, are public records.

(b) All air or other pollution monitoring data, including data compiled from stationary sources, are public records.

(c) All records of notices and orders directed to the owner of any building of violations of housing or building codes, ordinances, statutes, or regulations which constitute violations of standards provided in Section 1941.1 of the Civil Code, and records of subsequent action with respect to those notices and orders, are public records.

(d) Except as otherwise provided in subdivision (e) and Chapter 3 (commencing with Section 99150) of Part 65 of the Education Code, trade secrets are not public records under this section. "Trade secrets," as used in this section, may include, but are not limited to, any formula, plan, pattern, process, tool, mechanism, compound, procedure, production data, or compilation of information which is not patented, which is known only to certain individuals within a commercial concern who are using it to fabricate, produce, or compound an article of trade or a service having commercial value and which gives its user an opportunity to obtain a business advantage over competitors who do not know or use it.

(e) Notwithstanding any other provision of law, all air pollution emission data, including those emission data which constitute trade secrets as defined in subdivision (d), are public records. Data used to calculate emission data are not emission data for the purposes of this subdivision and data which constitute trade secrets and which are used to calculate emission data are not public records.

(f) Data used to calculate the costs of obtaining emissions offsets are not public records. At the time that an air pollution control district or air quality management district issues a permit to construct to an applicant who is required to obtain offsets pursuant to district rules and regulations, data obtained from the applicant consisting of the year the offset transaction occurred, the amount of offsets purchased, by pollutant, and the total cost, by pollutant, of the offsets purchased is a public record. If an application is denied, the data shall not be a public record.

⁸ Evidence Code

1060. If he or his agent or employee claims the privilege, the owner of a trade secret has a privilege to refuse to disclose the secret, and to prevent another from disclosing it, if the allowance of the privilege will not tend to conceal fraud or otherwise work injustice.

Health and Safety Code sections 57018 – 57020

57018. (a) For purposes of Sections 57019 and 57020, the following definitions shall apply:

(1) “Analytical test method” means a procedure used to sample, prepare, and analyze a specific matrix to determine the identity and concentration of a specified chemical and its metabolites and degradation product. An analytical test method shall conform to the standards adopted by the National Environmental Laboratory Accreditation Conference.

(2) “Bioconcentration factor” means the concentration of a chemical in an organism divided by its concentration in a test solution or environment.

(3) “Chemical” has the same meaning as a chemical substance, as defined in Section 2602 of Title 15 of the United States Code.

(4) “Manufacturer” means a person who produces a chemical in this state or who imports a chemical into this state for sale in this state.

(5) “Matrix” includes, but is not limited to, water, air, soil, sediment, sludge, chemical waste, fish, blood, adipose tissue, and urine.

(6) “Octanol-water partition coefficient” means the ratio of the concentration of a chemical in octanol and in water at equilibrium and at a specified temperature.

(7) “State agency” means the State Air Resources Board, the Department of Toxic Substances Control, the Integrated Waste Management Board, the Office of Environmental Health Hazard Assessment, the State Water Resources Control Board, and the California Environmental Protection Agency. “State agency” does not include the Department of Pesticide Regulation.

57019. (a) The California Environmental Protection Agency shall coordinate all requests for information from manufacturers made pursuant to this section on behalf of the state agencies.

(b) In coordinating the requests made pursuant to this section, the California Environmental Protection Agency shall seek to accomplish the following objectives:

(1) Minimize or eliminate duplicate requests for the same or similar information.

(2) Coordinate with manufacturers of the same chemical to develop and submit the requested information in an equitable and resource-efficient manner.

(3) To the extent practicable minimize the cost burden on individual manufacturers.

(4) Maintain a record of requests made pursuant to this section.

(c) A state agency, before requesting any information from a manufacturer pursuant to subdivision (d), shall do all of the following:

(1) Post on its Internet Web site and the Internet Web site of the California Environmental Protection Agency an announcement that it seeks information pursuant to subdivision (d), including the chemical for which it seeks information, the type of information it is seeking, and the reason for seeking the information.

(2) Conduct a search for the information it seeks of all known public sources of information on the chemicals for which an announcement has been posted pursuant to paragraph (1). All known public sources include public and electronically searchable databases maintained by the federal government, state governments, and intergovernmental organizations.

(3) Make reasonable attempts to contact all manufacturers of chemicals listed for which an announcement has been posted pursuant to paragraph (1) to obtain any relevant information that may be held by those manufacturers but is not publicly available.

(4) Make reasonable attempts to consult with all manufacturers of chemicals listed for which an announcement has been posted pursuant to paragraph (1) to determine what additional information, if any, those manufacturers need to develop to assist the state agency in evaluating the fate and transport of those chemicals in the relevant matrices.

(5) Make reasonable attempts to consult with all manufacturers to evaluate the technical feasibility of developing the information requested by the agency.

(d) (1) A state agency may request a manufacturer to provide additional information on a chemical for which an announcement has been posted pursuant to paragraph (1) of subdivision (c).

(2) Upon request of a state agency, the manufacturer, within one year, shall provide the state agency with the additional information requested for the specified chemical.

(3) The information that the state agency requests may include, but is not limited to, any of the following:

(A) An analytical test method for that chemical, or for metabolites and degradation products for that chemical that are biologically relevant in the matrix specified by the state agency.

(B) The octanol-water partition coefficient and bioconcentration factor for humans for that chemical.

(C) Other relevant information on the fate and transport of that chemical in the environment.

(4) The manufacturer responding to a request pursuant to this subdivision shall collaborate and cooperate with the state agency making the request to the extent practicable for the following purposes:

(A) To ensure that the information being provided meets the needs of the state agency.

(B) To reduce disagreements over the information being provided.

(C) To decrease to the maximum extent possible the effort and resources the state agency must expend to verify and validate the information provided.

(e) The definitions in Section 57018 apply to this section.

(f) This section shall not be construed to limit the authority of a state agency to obtain information pursuant to any other provision of law.

57020. (a) Notwithstanding Section 6254.7 of the Government Code, if a manufacturer believes that information provided to a state agency pursuant to Section 57019 involves the release of a trade secret, the manufacturer shall make the disclosure to the state agency and notify the state agency in writing of that belief. In its written notice, the manufacturer shall identify the portion of the information submitted to the state agency that it believes is a trade secret and provide documentation supporting its conclusion.

(b) Subject to this section, the state agency shall protect from disclosure a trade secret designated as such by the manufacturer, if that trade secret is not a public record.

(c) Upon receipt of a request for the release of information to the public that includes information that the manufacturer has notified the state agency is a trade secret and that is not a public record, the following procedure applies:

(1) The state agency shall notify the manufacturer that disclosed the information to the state agency of the request, in writing by certified mail, return receipt requested.

(2) The state agency shall release the information to the public, but not earlier than 30 days after the date of mailing the notice of the request for information, unless, prior to the expiration of the 30-day period, the manufacturer obtains an action in an appropriate court for a declaratory judgment that the information is subject to protection under this section or for a preliminary injunction prohibiting disclosure of the information to the public and promptly notifies the state agency of that action. In order to prevent the state agency from releasing the

information to the public, the manufacturer shall obtain a declaratory judgment or preliminary injunction within 30 days of filing an action for a declaratory judgment or preliminary injunction.

(d) This section does not authorize a manufacturer to refuse to disclose to the state agency information required by Section 57019.

(e) Any information that a court, pursuant to this section, determines is a trade secret and not a public record, or pending final judgment pursuant to subdivision (c), shall not be disclosed by the state agency to anyone, except to an officer or employee of a city or county, the state, or the United States, or to a contractor with a city or county, or the state, and its employees, if, in the opinion of the state agency, disclosure is necessary and required for the satisfactory performance of a contract, for the performance of work, or to protect the health and safety of the employees of the contractor.

(f) The definitions in Section 57018 apply to this section.