

**State of California
Office of Administrative Law**

In re:
Department of Toxic Substances Control

**NOTICE OF APPROVAL OF REGULATORY
ACTION**

Regulatory Action:

Government Code Section 11349.3

Title 22, California Code of Regulations

OAL File No. 2013-0920-06 SR

**Amend sections: 69501.3(b), 69509.1(a),
69509.1(c)**

This regulatory action makes some corrections to a broader action that established a list of Candidate Chemicals, provided a process to identify additional chemicals, described the process for evaluating and prioritizing consumer products that contain these chemicals and creating a Priority Product list. This action clarifies some aspects of that broader action regarding submission of documents to the Department and review of trade secret protection claims

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on 10/1/2013.

Date: 10/1/2013


George C. Shaw
Senior Counsel

For: DEBRA M. CORNEZ
Director

Original: Deborah Raphael
Copy: Manpreet Singh

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-2012-0717-04	REGULATORY ACTION NUMBER 2013-0920-06 SR	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	

ENDORSED FILED
 IN THE OFFICE OF
 2013 OCT -1 PM 3:39

 DEBRA BOWEN
 SECRETARY OF STATE

AGENCY WITH RULEMAKING AUTHORITY Department of Toxic Substances Control	AGENCY FILE NUMBER (if any) R-2011-02
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A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	NOTICE REGISTER NUMBER 2012, 302	PUBLICATION DATE 7/27/2012	

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Safer Consumer Products	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 2013-0718-035
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)
ADOPT
AMEND 69501.3(b), 69509.1(a), and 69509.1(c)
REPEAL
TITLE(S) 22

3. TYPE OF FILING

<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input checked="" type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input type="checkbox"/> Other (Specify) _____	

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)
 August 23, 2013 through September 9, 2013

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)

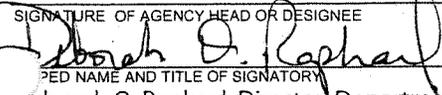
<input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))	<input type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> \$100 Changes Without Regulatory Effect	<input checked="" type="checkbox"/> Effective other (Specify) October 1, 2013
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6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

<input checked="" type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal
<input checked="" type="checkbox"/> Other (Specify) Notified special interested agencies in compliance with Health & Safety Code section 25150(f)		

7. CONTACT PERSON Manpreet K. Singh	TELEPHONE NUMBER (916)322-2543	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) Manpreet.Kaur@dtsc.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE 	DATE 9/20/2013
PRINTED NAME AND TITLE OF SIGNATORY Deborah O. Raphael, Director, Department of Toxic Substances Control	

For use by Office of Administrative Law (OAL) only
 ENDORSED APPROVED
 OCT 01 2013
 Office of Administrative Law

PROPOSED REVISIONS TO
SAFER CONSUMER PRODUCTS REGULATIONS

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

DEPARTMENT OF TOXIC SUBSTANCES CONTROL REFERENCE NUMBER: R-2011-02

OFFICE OF ADMINISTRATIVE LAW NOTICE FILE NUMBER: Z-2012-0717-04

OFFICE OF ADMINISTRATIVE LAW FILE NO: 2013-0718-03 S

Legend: Changes to the existing text of California Code of Regulations, title 22, division 4.5, chapter 55 are shown as:

Underline (underline) – Additions to existing text

Strikeout (~~strikeout~~) – Deletions from existing text

Amend California Code of Regulations, title 22, division 4.5, chapter 55, section 69501.3 to read:

§ 69501.3. Information Submission and Retention Requirements.

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

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

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

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

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

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

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

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

Amend California Code of Regulations, title 22, division 4.5, chapter 55, section 69509.1 to read:

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

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

(b) Additional Information Requirements.

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

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

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

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

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

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

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

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

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