

# HEALTH AND SAFETY CODE

## SECTION 25251-25257.1

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 71017 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 4022 of the Business and 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 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(f) This section shall remain in effect only until December 31, 2011, and as of that date is repealed, unless a later enacted statute, that is enacted before December 31, 2011, deletes or extends that date.

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

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).

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.

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.

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).

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.

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.

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.

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.

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.

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 6254.7 of the Government Code and Section 1060 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.

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.