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Title 22@ Social Security

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Division 4.5@ Environmental Health Standards for the Management of Hazardous Waste

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Chapter 55@ Safer Consumer Products

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Article 1@ General

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Section 69501.2@ Duty to Comply and Consequences of Non-Compliance

69501.2 Duty to Comply and Consequences of Non-Compliance

(a)

Duty to Comply. (1) (A) A manufacturer has the principal duty to comply with requirements applicable to a responsible entity. In the event a manufacturer does not comply, it shall be the duty of the importer, if any, to comply if the Department provides notice to the importer under subsection (c)(1). A retailer or assembler is required to comply with the requirements applicable to a responsible entity only if the manufacturer and the importer have failed to comply and the Department provides notice to the retailer or assembler of such non-compliance by posting the information on the Failure to Comply List. (B) Notwithstanding subparagraph (A), the provisions of sections 69505.2 and 69505.3 may only be fulfilled by the manufacturer. (C) The Department may not require any responsible entity other than the manufacturer to comply with a regulatory response under sections 69506.6 through 69506.8. However, if the manufacturer fails to comply and the Department provides notice under subparagraph (A), the importer shall cease to place the product into the stream of commerce in California and each retailer and assembler shall cease ordering the product, no later than ninety (90) days after the Department has provided such notice. (2) Except for the requirement to submit a notification under sections 69503.7, 69505.2, or 69505.3, the requirements of this chapter applicable to a

responsible entity may be fulfilled by a consortium, trade association, public-private partnership, non-profit organization, or other entity acting on behalf of, or in the stead of, the responsible entity.

(1)

(A) A manufacturer has the principal duty to comply with requirements applicable to a responsible entity. In the event a manufacturer does not comply, it shall be the duty of the importer, if any, to comply if the Department provides notice to the importer under subsection (c)(1). A retailer or assembler is required to comply with the requirements applicable to a responsible entity only if the manufacturer and the importer have failed to comply and the Department provides notice to the retailer or assembler of such non-compliance by posting the information on the Failure to Comply List. (B) Notwithstanding subparagraph (A), the provisions of sections 69505.2 and 69505.3 may only be fulfilled by the manufacturer. (C) The Department may not require any responsible entity other than the manufacturer to comply with a regulatory response under sections 69506.6 through 69506.8. However, if the manufacturer fails to comply and the Department provides notice under subparagraph (A), the importer shall cease to place the product into the stream of commerce in California and each retailer and assembler shall cease ordering the product, no later than ninety (90) days after the Department has provided such notice.

(A)

A manufacturer has the principal duty to comply with requirements applicable to a responsible entity. In the event a manufacturer does not comply, it shall be the duty of the importer, if any, to comply if the Department provides notice to the importer under subsection (c)(1). A retailer or assembler is required to comply with the requirements applicable to a responsible entity only if the manufacturer and the importer have failed to comply and the Department provides notice to the retailer or assembler of such

non-compliance by posting the information on the Failure to Comply List.

(B)

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

(C)

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

(2)

Except for the requirement to submit a notification under sections 69503.7, 69505.2, or 69505.3, the requirements of this chapter applicable to a responsible entity may be fulfilled by a consortium, trade association, public-private partnership, non-profit organization, or other entity acting on behalf of, or in the stead of, the responsible entity.

(b)

Retailer and Assembler Options. A retailer or assembler who has received a notice from the Department under subsection (a)(1)(A) is not responsible for complying with the requirements specified in the notice if: (1) The manufacturer or importer complies with the requirement specified in the Department's notice within ninety (90) days after the Department issues the notice; or (2) The retailer or assembler complies with both of the following requirements: (A) The retailer or assembler ceases ordering the product no later than ninety (90) days after the Department has provided notice under subsection (a)(1)(A); and (B) No later than

ninety (90) days after the Department has provided notice under subsection (a)(1)(A), the retailer or assembler submits a Product Cease Ordering Notification informing the Department that the retailer or assembler has ceased ordering the product, and provides the following information to the Department: 1. The name of, and contact information for, the retailer or assembler, whichever is applicable; 2. The name of, and contact information for, the manufacturer(s) and importer(s); 3. Identification and location of the retailer's sales outlets where the product is sold, supplied, or offered for sale in California, if applicable; 4. The name of, and contact information for, the person immediately upstream from the retailer or assembler, as applicable, in the supply chain for the product; 5. Information describing the product, and the brand name(s) and product name(s) under which the retailer's or assembler's product is placed into the stream of commerce in California, and, if the product is a component of one or more assembled products, a description of the known product(s) in which the component is used; 6. The length of time the retailer or assembler estimates will be needed to exhaust the remaining inventory of the Priority Product; and 7. A statement certifying that the retailer or assembler will not re-initiate ordering the product unless and until information posted on the Department's website indicates that the non-compliance has been remedied.

(1)

The manufacturer or importer complies with the requirement specified in the Department's notice within ninety (90) days after the Department issues the notice; or

(2)

The retailer or assembler complies with both of the following requirements: (A) The retailer or assembler ceases ordering the product no later than ninety (90) days after the Department has provided notice under subsection (a)(1)(A); and (B) No later than

ninety (90) days after the Department has provided notice under subsection (a)(1)(A), the retailer or assembler submits a Product Cease Ordering Notification informing the Department that the retailer or assembler has ceased ordering the product, and provides the following information to the Department: 1. The name of, and contact information for, the retailer or assembler, whichever is applicable; 2. The name of, and contact information for, the manufacturer(s) and importer(s); 3. Identification and location of the retailer's sales outlets where the product is sold, supplied, or offered for sale in California, if applicable; 4. The name of, and contact information for, the person immediately upstream from the retailer or assembler, as applicable, in the supply chain for the product; 5. Information describing the product, and the brand name(s) and product name(s) under which the retailer's or assembler's product is placed into the stream of commerce in California, and, if the product is a component of one or more assembled products, a description of the known product(s) in which the component is used; 6. The length of time the retailer or assembler estimates will be needed to exhaust the remaining inventory of the Priority Product; and 7. A statement certifying that the retailer or assembler will not re-initiate ordering the product unless and until information posted on the Department's website indicates that the non-compliance has been remedied.

(A)

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

(B)

No later than ninety (90) days after the Department has provided notice under subsection (a)(1)(A), the retailer or assembler submits a Product Cease Ordering Notification informing the Department that the retailer or assembler has ceased ordering the product, and provides the following information to the Department: 1. The name of, and contact information for,

the retailer or assembler, whichever is applicable; 2. The name of, and contact information for, the manufacturer(s) and importer(s); 3. Identification and location of the retailer's sales outlets where the product is sold, supplied, or offered for sale in California, if applicable; 4. The name of, and contact information for, the person immediately upstream from the retailer or assembler, as applicable, in the supply chain for the product; 5. Information describing the product, and the brand name(s) and product name(s) under which the retailer's or assembler's product is placed into the stream of commerce in California, and, if the product is a component of one or more assembled products, a description of the known product(s) in which the component is used; 6. The length of time the retailer or assembler estimates will be needed to exhaust the remaining inventory of the Priority Product; and 7. A statement certifying that the retailer or assembler will not re-initiate ordering the product unless and until information posted on the Department's website indicates that the non-compliance has been remedied.

1.

The name of, and contact information for, the retailer or assembler, whichever is applicable;

2.

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

3.

Identification and location of the retailer's sales outlets where the product is sold, supplied, or offered for sale in California, if applicable;

4.

The name of, and contact information for, the person immediately upstream from the retailer or assembler, as applicable, in the supply chain for the product;

5.

Information describing the product, and the brand name(s) and product name(s) under which the retailer's or assembler's product is placed into the stream of commerce in California, and, if the

product is a component of one or more assembled products, a description of the known product(s) in which the component is used;

6.

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

7.

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

(c)

Failure to Comply List. (1) (A) If the Department determines that one or more requirements of this chapter have not been complied with for a specific product, the Department shall issue a notice of non-compliance to the manufacturer and the importer(s) for the product. (B) A notice of non-compliance must include a description of the nature of the non-compliance, the steps necessary to achieve compliance, and the Department's intent to place information concerning the determination of non-compliance on the Failure to Comply List on its website. (2) If the non-compliance has not been remedied to the satisfaction of the Department within forty-five (45) days after the issuance of the notice of non-compliance, the Department shall post information concerning the determination of non-compliance on the Failure to Comply List on its website. The Department shall post this information on the Failure to Comply List not later than ninety (90) days after issuing the notice of non-compliance. (3) Paragraph (2) does not apply if there is a pending dispute under article 7 concerning the notice of non-compliance. (4) The Department shall post and maintain on its website a Failure to Comply List that includes the following information for each product

covered by a notice of non-compliance: (A) Information identifying and describing the product, and the brand name(s) and product name(s) under which the product is placed into the stream of commerce in California, and, if the product is a component of one or more assembled products, a description of the known product(s) in which the component is used; (B) The requirement(s) of this chapter, and the applicable due date(s), that are the basis for the notice of non-compliance; (C) A statement placing retailers and, if applicable, assemblers on notice under subsection (a)(1)(A) of the failure to comply by the manufacturer(s) and importer(s), including identification of the requirement with which the retailer and, if applicable, assembler shall comply and the time frame for compliance, which shall be no less than ninety (90) days after the notice is posted on the Department's website; (D) The Chemical(s) of Concern and any other Candidate Chemical(s) known to the Department to be present in the product; (E) The name of and, if known, the contact information for any person(s) listed on the product label as the manufacturer, importer, or distributor; (F) The name of, and contact information for, any manufacturer or importer that has been noticed by the Department, under paragraph (1); (G) The name of, and contact information for, retailers and, if applicable, assemblers known to the Department who have not fully complied with the requirements of subsection (b); and (H) The date the product is first listed on the Failure to Comply List. (5) The Department shall remove a product and the associated information from the Failure to Comply List if the Department determines that the condition of non-compliance has been fully remedied. (6) The Department shall remove information concerning a retailer or an assembler from the Failure to Comply List if the Department determines that the retailer or assembler has fully complied with subsection (b).

(1)

(A) If the Department determines that one or more requirements of this chapter have not been complied with for a specific product, the Department shall issue a notice of non-compliance to the manufacturer and the importer(s) for the product. (B) A notice of non-compliance must include a description of the nature of the non-compliance, the steps necessary to achieve compliance, and the Department's intent to place information concerning the determination of non-compliance on the Failure to Comply List on its website.

(A)

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

(B)

A notice of non-compliance must include a description of the nature of the non-compliance, the steps necessary to achieve compliance, and the Department's intent to place information concerning the determination of non-compliance on the Failure to Comply List on its website.

(2)

If the non-compliance has not been remedied to the satisfaction of the Department within forty-five (45) days after the issuance of the notice of non-compliance, the Department shall post information concerning the determination of non-compliance on the Failure to Comply List on its website. The Department shall post this information on the Failure to Comply List not later than ninety (90) days after issuing the notice of non-compliance.

(3)

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

(4)

The Department shall post and maintain on its website a Failure to Comply List that includes the following information for each product covered by a notice of non-compliance: (A) Information identifying and describing the product, and the brand name(s) and product name(s) under which the product is placed into the stream of commerce in California, and, if the product is a component of one or more assembled products, a description of the known product(s) in which the component is used; (B) The requirement(s) of this chapter, and the applicable due date(s), that are the basis for the notice of non-compliance; (C) A statement placing retailers and, if applicable, assemblers on notice under subsection (a)(1)(A) of the failure to comply by the manufacturer(s) and importer(s), including identification of the requirement with which the retailer and, if applicable, assembler shall comply and the time frame for compliance, which shall be no less than ninety (90) days after the notice is posted on the Department's website; (D) The Chemical(s) of Concern and any other Candidate Chemical(s) known to the Department to be present in the product; (E) The name of and, if known, the contact information for any person(s) listed on the product label as the manufacturer, importer, or distributor; (F) The name of, and contact information for, any manufacturer or importer that has been noticed by the Department, under paragraph (1); (G) The name of, and contact information for, retailers and, if applicable, assemblers known to the Department who have not fully complied with the requirements of subsection (b); and (H) The date the product is first listed on the Failure to Comply List.

(A)

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

(B)

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

(C)

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

(D)

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

(E)

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

(F)

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

(G)

The name of, and contact information for, retailers and, if applicable, assemblers known to the Department who have not fully complied with the requirements of subsection (b); and

(H)

The date the product is first listed on the Failure to Comply List.

(5)

The Department shall remove a product and the associated information from the Failure to Comply List if the Department determines that the condition of

non-compliance has been fully remedied.

(6)

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