

69505.2 Removal/Replacement Notifications in Lieu of Alternatives Analysis

(a)

Applicability. (1) (A) The requirements of this article do not apply to a responsible entity's Priority Product if the manufacturer of the Priority Product submits one of the following notifications to the Department no later than the due date for submitting the Preliminary AA Report: 1. A Chemical Removal Intent and/or Confirmation Notification that complies with subsections (b) and (c); 2. A Product Removal Intent and/or Confirmation Notification that complies with subsections (b) and (d); or 3. A Product-Chemical Replacement Intent and/or Confirmation Notification that complies with subsections (b) and (e). (B) If only a Chemical Removal, Product Removal, or Product-Chemical Replacement Intent Notification is submitted to the Department by the date specified in subparagraph (A), within ninety (90) days of the submission date, or by the due date for the Preliminary AA Report, whichever is later, the manufacturer shall submit one of the following to the Department: 1. A removal or replacement Confirmation Notification; or 2. A Preliminary AA Report, Abridged AA Report, or Alternate Process AA Work Plan. (2) (A) If a Preliminary AA Report or Alternate Process AA Work Plan has already been submitted to the Department, the requirements of this article pertaining to performance of a second stage AA and submission of a Final AA Report do not apply if one of the notifications specified in paragraph

(1)(A) is submitted to the Department prior to the due date for submitting the Final AA Report. (B) If only a Chemical Removal, Product Removal, or Product-Chemical Replacement Intent Notification is submitted to the Department by the date specified in subparagraph (A), the manufacturer shall submit a removal or replacement Confirmation Notification or a Final AA Report by the later of the following dates: 1. Ninety (90) days after the Intent Notification is submitted; or 2. The due date for the Final AA Report. (3) A manufacturer is not in compliance with section 69505.1(b), if the manufacturer submits a notification under this section, in lieu of submitting the otherwise required AA Report(s), and that notification is not submitted by the applicable due date or does not fully meet the applicable content requirements specified in subsections (b) through (e).

(1)

(A) The requirements of this article do not apply to a responsible entity's Priority Product if the manufacturer of the Priority Product submits one of the following notifications to the Department no later than the due date for submitting the Preliminary AA Report: 1. A Chemical Removal Intent and/or Confirmation Notification that complies with subsections (b) and (c); 2. A Product Removal Intent and/or Confirmation Notification that complies with subsections (b) and (d); or 3. A Product-Chemical Replacement Intent and/or Confirmation Notification that complies with subsections (b) and (e). (B) If only a Chemical Removal, Product Removal, or Product-Chemical Replacement Intent Notification is submitted to the Department by the date specified in subparagraph (A), within ninety (90) days of the submission date, or by the due date for the Preliminary AA Report, whichever is later, the manufacturer shall submit one of the following to the Department: 1. A removal or replacement Confirmation Notification; or 2. A Preliminary AA Report, Abridged AA Report, or Alternate Process AA Work Plan.

(A)

The requirements of this article do not apply to a responsible entity's Priority Product if the manufacturer of the Priority Product submits one of the following notifications to the Department no later than the due date for submitting the Preliminary AA Report: 1. A Chemical Removal Intent and/or Confirmation Notification that complies with subsections (b) and (c); 2. A Product Removal Intent and/or Confirmation Notification that complies with subsections (b) and (d); or 3. A Product-Chemical Replacement Intent and/or Confirmation Notification that complies with subsections (b) and (e).

1.

A Chemical Removal Intent and/or Confirmation Notification that complies with subsections (b) and (c);

2.

A Product Removal Intent and/or Confirmation Notification that complies with subsections (b) and (d); or

3.

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

(B)

If only a Chemical Removal, Product Removal, or Product-Chemical Replacement Intent Notification is submitted to the Department by the date specified in subparagraph (A), within ninety (90) days of the submission date, or by the due date for the Preliminary AA Report, whichever is later, the manufacturer shall submit one of the following to the Department: 1. A removal or replacement Confirmation Notification; or 2. A Preliminary AA Report, Abridged AA Report, or Alternate Process AA Work Plan.

1.

A removal or replacement Confirmation Notification; or

2.

A Preliminary AA Report, Abridged AA Report, or Alternate Process AA Work Plan.

(2)

(A) If a Preliminary AA Report or Alternate Process AA Work Plan has already been submitted to the Department, the requirements of this article pertaining to performance of a second stage AA and submission of a Final AA Report do not apply if one of the notifications specified in paragraph (1)(A) is submitted to the Department prior to the due date for submitting the Final AA Report. (B) If only a Chemical Removal, Product Removal, or Product-Chemical Replacement Intent Notification is submitted to the Department by the date specified in subparagraph (A), the manufacturer shall submit a removal or replacement Confirmation Notification or a Final AA Report by the later of the following dates: 1. Ninety (90) days after the Intent Notification is submitted; or 2. The due date for the Final AA Report.

(A)

If a Preliminary AA Report or Alternate Process AA Work Plan has already been submitted to the Department, the requirements of this article pertaining to performance of a second stage AA and submission of a Final AA Report do not apply if one of the notifications specified in paragraph (1)(A) is submitted to the Department prior to the due date for submitting the Final AA Report.

(B)

If only a Chemical Removal, Product Removal, or Product-Chemical Replacement Intent Notification is submitted to the Department by the date specified in subparagraph (A), the manufacturer shall submit a removal or replacement Confirmation Notification or a Final AA Report by the later of the following dates: 1. Ninety (90) days after the Intent Notification is submitted; or 2. The due date for the Final AA Report.

1.

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

2.

The due date for the Final AA Report.

(3)

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

(b)

Content Requirements for Intent and Confirmation Notifications. Chemical Removal, Product Removal, and Product-Chemical Replacement Intent and Confirmation Notifications must include: (1) The name of, and contact information for, the person submitting the notification. (2) The name of, and contact information for, any known responsible entity(ies). (3) If different from paragraphs (1) and (2), the name of, and contact information for, the manufacturer(s) and importer(s) of the product. (4) The name of, and contact information for, all persons in California, other than the final purchaser or lessee, to whom the manufacturer directly sold the Priority Product within the prior twelve (12) months. (5) Identification and location of the manufacturer's retail sales outlets where the manufacturer sold, supplied, or offered for sale the Priority Product in California, if applicable. (6) Information identifying and describing the Priority Product and the reformulated product, if applicable, and the brand name(s) and labeling information under which the Priority Product and the reformulated product, if applicable, are/were 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.

(7) The intended uses, and targeted customer base(s), for the Priority Product and the reformulated product, if applicable. (8) The measures the manufacturer will take, or has taken, to: (A) If applicable, provide information regarding the reformulated product to persons selling or distributing the Priority Product in California; and (B) Cease fulfilling orders for the Priority Product from persons selling or distributing the Priority Product in California. (9) For Chemical Removal Notifications and/or Product-Chemical Replacement Notifications, the Chemical(s) of Concern that will be or have been removed from the product and, as applicable, the following information: (A) Information explaining the rationale and the factors considered in deciding to reformulate the product; (B) Laboratory analytical testing methodology and quality control and assurance protocols used or that will be used to confirm that the Chemical(s) of Concern has/have been removed, and identification of the testing laboratory; (C) Information demonstrating that the Chemical(s) of Concern has/have been removed from the product that was a Priority Product; (D) The name of the replacement chemical(s), the concentration of each replacement chemical in the reformulated product, and the hazard traits and/or environmental or toxicological endpoints known to be associated with the replacement chemical(s); (E) Laboratory analytical testing methodology and quality control and assurance protocols used or that will be used to measure the concentration of the replacement chemical(s) in the product, and identification of the testing laboratory; and (F) Information demonstrating that the replacement chemical(s) meet one of the following criteria: 1. The replacement chemical(s) is/are not on the Candidate Chemicals list; or 2. The replacement chemical(s) is/are Candidate Chemical(s) that is/are already in use to manufacture the same product, in lieu of the Chemical(s) of Concern, by the same or a different

manufacturer. For purposes of this subsection, "same product" means a product that has the same or similar product description as the Priority Product; has the same intended use(s) and targeted customer base(s) as the Priority Product; and fulfills the functional, performance, and legal requirements of the Priority Product.

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

(1)

The name of, and contact information for, the person submitting the notification.

(2)

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

(3)

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

(4)

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

(5)

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

(6)

Information identifying and describing the Priority Product and the reformulated product, if applicable, and the brand name(s) and labeling information under which the Priority Product and the reformulated product, if applicable, are/were 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.

(7)

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

(8)

The measures the manufacturer will take, or has taken, to: (A) If applicable, provide information regarding the reformulated product to persons selling or distributing the Priority Product in California; and (B) Cease fulfilling orders for the Priority Product from persons selling or distributing the Priority Product in California.

(A)

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

(B)

Cease fulfilling orders for the Priority Product from persons selling or distributing the Priority Product in California.

(9)

For Chemical Removal Notifications and/or Product-Chemical Replacement Notifications, the Chemical(s) of Concern that will be or have been removed from the product and, as applicable, the following information: (A) Information explaining the rationale and the factors considered in deciding to reformulate the product; (B) Laboratory analytical testing methodology and quality control and assurance protocols used or that will be used to confirm that the Chemical(s) of Concern has/have been removed, and identification of the testing laboratory; (C) Information demonstrating that the Chemical(s) of Concern has/have been removed from the product that was a Priority Product; (D) The name of the replacement chemical(s), the concentration of

each replacement chemical in the reformulated product, and the hazard traits and/or environmental or toxicological endpoints known to be associated with the replacement chemical(s); (E) Laboratory analytical testing methodology and quality control and assurance protocols used or that will be used to measure the concentration of the replacement chemical(s) in the product, and identification of the testing laboratory; and (F) Information demonstrating that the replacement chemical(s) meet one of the following criteria: 1. The replacement chemical(s) is/are not on the Candidate Chemicals list; or 2. The replacement chemical(s) is/are Candidate Chemical(s) that is/are already in use to manufacture the same product, in lieu of the Chemical(s) of Concern, by the same or a different manufacturer. For purposes of this subsection, "same product" means a product that has the same or similar product description as the Priority Product; has the same intended use(s) and targeted customer base(s) as the Priority Product; and fulfills the functional, performance, and legal requirements of the Priority Product.

(A)

Information explaining the rationale and the factors considered in deciding to reformulate the product;

(B)

Laboratory analytical testing methodology and quality control and assurance protocols used or that will be used to confirm that the Chemical(s) of Concern has/have been removed, and identification of the testing laboratory;

(C)

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

(D)

The name of the replacement chemical(s), the concentration of each replacement chemical in

the reformulated product, and the hazard traits and/or environmental or toxicological endpoints known to be associated with the replacement chemical(s);

(E)

Laboratory analytical testing methodology and quality control and assurance protocols used or that will be used to measure the concentration of the replacement chemical(s) in the product, and identification of the testing laboratory; and

(F)

Information demonstrating that the replacement chemical(s) meet one of the following criteria: 1. The replacement chemical(s) is/are not on the Candidate Chemicals list; or 2.

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

1.

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

2.

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

(10)

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

(c)

Chemical Removal Notification Certification Statements. Chemical Removal Intent and Confirmation Notifications must include whichever of the following certification statements is applicable: (1) Chemical Removal Intent Notifications must include a statement certifying that the manufacturer intends to do all of the following within ninety (90) days of the date the notification is submitted to the Department: (A) Remove the Chemical(s) of Concern from the Priority Product without the use of one or more replacement chemicals or otherwise adding other chemicals to the product; (B) Provide information regarding the reformulated product to persons selling or distributing the Priority Product in California; (C) Cease fulfilling orders for the Priority Product from persons selling or distributing the Priority Product in California; and (D) Submit a Chemical Removal Confirmation Notification to the Department for the Priority Product. (2) Chemical Removal Confirmation Notifications must include a statement certifying that: (A) The Chemical(s) of Concern has/have been removed from the product that was a Priority Product without the use of one or more replacement chemicals or otherwise adding other chemicals to the product; (B) Information regarding the reformulated product has been provided to persons selling or distributing the Priority Product in California; and (C) The manufacturer has ceased, and will not resume, fulfilling orders for the Priority Product from persons selling or distributing the Priority Product in California.

(1)

Chemical Removal Intent Notifications must include a statement certifying that the manufacturer intends to do all of the following within ninety (90) days of the date the notification is submitted to the Department: (A) Remove the Chemical(s) of Concern from the Priority Product without the use of one or more replacement chemicals or

otherwise adding other chemicals to the product; (B) Provide information regarding the reformulated product to persons selling or distributing the Priority Product in California; (C) Cease fulfilling orders for the Priority Product from persons selling or distributing the Priority Product in California; and (D) Submit a Chemical Removal Confirmation Notification to the Department for the Priority Product.

(A)

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

(B)

Provide information regarding the reformulated product to persons selling or distributing the Priority Product in California;

(C)

Cease fulfilling orders for the Priority Product from persons selling or distributing the Priority Product in California; and

(D)

Submit a Chemical Removal Confirmation Notification to the Department for the Priority Product.

(2)

Chemical Removal Confirmation Notifications must include a statement certifying that:

(A) The Chemical(s) of Concern has/have been removed from the product that was a Priority Product without the use of one or more replacement chemicals or otherwise adding other chemicals to the product; (B) Information regarding the reformulated product has been provided to persons selling or distributing the Priority Product in California; and (C) The manufacturer has ceased, and will not resume, fulfilling orders for the Priority Product from persons selling or distributing the Priority Product in California.

(A)

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

(B)

Information regarding the reformulated product has been provided to persons selling or distributing the Priority Product in California; and

(C)

The manufacturer has ceased, and will not resume, fulfilling orders for the Priority Product from persons selling or distributing the Priority Product in California.

(d)

Product Removal Notification Certification Statements. Product Removal Intent and Confirmation Notifications must include whichever of the following certification statements is applicable: (1) Product Removal Intent Notifications must include a statement certifying that the manufacturer intends to do both of the following within ninety (90) days of the date the notification is submitted to the Department: (A) Cease fulfilling orders for the Priority Product from persons selling or distributing the Priority Product in California; and (B) Submit a Product Removal Confirmation Notification to the Department for the product. (2) Product Removal Confirmation Notifications must include a statement certifying that the manufacturer has ceased, and will not resume, fulfilling orders for the Priority Product from persons selling or distributing the Priority Product in California.

(1)

Product Removal Intent Notifications must include a statement certifying that the manufacturer intends to do both of the following within ninety (90) days of the date the notification is submitted to the Department: (A) Cease fulfilling orders for the Priority

Product from persons selling or distributing the Priority Product in California; and (B) Submit a Product Removal Confirmation Notification to the Department for the product.

(A)

Cease fulfilling orders for the Priority Product from persons selling or distributing the Priority Product in California; and

(B)

Submit a Product Removal Confirmation Notification to the Department for the product.

(2)

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

(e)

Product-Chemical Replacement Notification Certification Statements.

Product-Chemical Replacement Intent and Confirmation Notifications must include whichever of the following certification statements is applicable: (1)

Product-Chemical Replacement Intent Notifications must include a statement certifying that the manufacturer intends to do all of the following within ninety (90) days of the date the notification is submitted to the Department: (A) Remove the Chemical(s) of Concern from the Priority Product; (B) Provide information regarding the reformulated product to persons selling or distributing the Priority Product in California; (C) Cease fulfilling orders for the Priority Product from persons selling or distributing the Priority Product in California; and (D) Submit a Product-Chemical Replacement Confirmation Notification to the Department for the Priority Product. (2) Product-Chemical Replacement Confirmation Notifications must include a statement certifying that: (A) The Chemical(s) of Concern has/have been removed from the product that was a Priority Product; (B)

The replacement chemical(s) meet the criteria specified in subparagraph 1. or subparagraph 2. of subsection (b)(9)(F); (C) Information regarding the reformulated product has been provided to persons selling or distributing the Priority Product in California; and (D) The manufacturer has ceased, and will not resume, fulfilling orders for the Priority Product from persons selling or distributing the Priority Product in California.

(1)

Product-Chemical Replacement Intent Notifications must include a statement certifying that the manufacturer intends to do all of the following within ninety (90) days of the date the notification is submitted to the Department: (A) Remove the Chemical(s) of Concern from the Priority Product; (B) Provide information regarding the reformulated product to persons selling or distributing the Priority Product in California; (C) Cease fulfilling orders for the Priority Product from persons selling or distributing the Priority Product in California; and (D) Submit a Product-Chemical Replacement Confirmation Notification to the Department for the Priority Product.

(A)

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

(B)

Provide information regarding the reformulated product to persons selling or distributing the Priority Product in California;

(C)

Cease fulfilling orders for the Priority Product from persons selling or distributing the Priority Product in California; and

(D)

Submit a Product-Chemical Replacement Confirmation Notification to the Department for the Priority Product.

(2)

Product-Chemical Replacement Confirmation Notifications must include a statement certifying that: (A) The Chemical(s) of Concern has/have been removed from the product that was a Priority Product; (B) The replacement chemical(s) meet the criteria specified in subparagraph 1. or subparagraph 2. of subsection (b)(9)(F); (C) Information regarding the reformulated product has been provided to persons selling or distributing the Priority Product in California; and (D) The manufacturer has ceased, and will not resume, fulfilling orders for the Priority Product from persons selling or distributing the Priority Product in California.

(A)

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

(B)

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

(C)

Information regarding the reformulated product has been provided to persons selling or distributing the Priority Product in California; and

(D)

The manufacturer has ceased, and will not resume, fulfilling orders for the Priority Product from persons selling or distributing the Priority Product in California.