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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 6@ Regulatory Responses

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Section 69506.7@ End-of-Life Management Requirements

69506.7 End-of-Life Management Requirements

(a)

Applicability. A manufacturer of a selected alternative, or a Priority Product for which an alternative is not selected, that is sold or otherwise made available to consumers as a finished product and is required to be managed as a hazardous waste in California at the end of its useful life, shall comply with the requirements of subsection (c) except as otherwise provided under subsections (d) and (e).

(b)

Manufacturer Collaboration Option. A manufacturer may individually fulfill the requirements of this section, or may join with other manufacturers to form a non-profit third-party product stewardship organization, funded by participating manufacturers, to fulfill the requirements of this section on behalf of the participating manufacturers.

(c)

End-of-Life Program Requirements. No later than the date specified by the Department in the final regulatory response determination notice for the product, or no later than the date the product is first placed into the stream of commerce in California, whichever is later, the manufacturer shall establish and maintain an end-of-life management program for the product. The program must comply with all of the following requirements: (1) A comprehensive product stewardship plan must be developed and maintained, after the plan is submitted to and approved

by the Department. If the Department disapproves the plan, it shall notify the manufacturer in writing, identify what is necessary to correct deficiencies in the plan, and specify a due date for submission of a revised plan. If the plan is not resubmitted by the due date or does not address all of the deficiencies, the plan will be considered to be non-compliant with this section. (2) Each product stewardship plan must include: (A) A list of, and contact information for, participating manufacturers, importers, and other participating persons. (B) The scope of products and brands to be covered by the plan. (C) The roles and responsibilities for manufacturers, importers, assemblers, retailers, consumers, and government throughout the life cycle of the product, and identification of retailers and/or assemblers who have agreed to participate in the program. (D) Identification and description of collection systems that will be used. (E) End-of-life management information that describes the steps that will be taken to ensure compliance with all applicable federal and California State and local laws, and that addresses any adverse multimedia impacts. (F) Identification of anticipated resources needed to implement and sustain the plan, which must ensure that the end-of-life management program is maintained for sufficient time to be available at the end-of-life for the last covered product, and all previous covered products, that the manufacturer places into the stream of commerce in California. An estimate of the annual and total long-term program costs shall also be identified in the plan, along with the information, assumptions, calculations, and any models used to develop the cost estimate. (G) The funding mechanism to cover, but not exceed, the costs identified in subparagraph (F). This requirement shall be satisfied by whichever of the following means is applicable: 1. If the end-of-life management program will be administered by a non-profit third-party product stewardship organization under subsection (b), the plan shall describe how the

organization will collect operating revenues in an amount necessary to cover, but not exceed, the costs identified in subparagraph (F). This shall include the method and calculations used to determine how much each participant will contribute. 2. If an individual manufacturer is administering and funding its own end-of-life management program, the manufacturer shall provide a financial guarantee that will ensure that adequate funding is available to cover the costs identified in subparagraph (F). (H) Program performance goals, which shall be quantitative to the extent feasible, for: 1. Increasing the capture rate of covered products at the end-of-life; and 2. Increasing recyclability and recycling rate. (I) A description of how each program goal will be achieved. (J) Public education, outreach, and communications plans. (K) A description of public and stakeholder consultation activities during preparation of the plan, which shall include, at a minimum, provision of thirty (30) days for the public to comment on the proposed product stewardship plan through the manufacturer's website. The manufacturer shall transmit to the Department all comments received concurrent with submittal of the plan. (L) A description of public and stakeholder consultation activities for review and updating of the plan, which shall occur no less frequently than annually. (M) Reporting and evaluation procedures. (3) The product stewardship program and plan for collecting and, if applicable, recycling the product shall be developed in consultation with California retailers and other owners/operators of prospective collection sites. (4) The manufacturer shall provide its product stewardship plan to the Department for review and approval, post a copy of the product stewardship plan on its own website, and provide that link to the Department for posting on the Department's website. (5) The manufacturer of a product subject to this section shall provide an annual report to the Department. The annual report is due one (1) year from the date the end-of-life management

program is required to be implemented, and annually thereafter. The report must include, by total tonnage: (A) The quantity of products placed into the stream of commerce in California over the previous one-year period; and (B) The quantity of products recovered over the same one-year period.

(1)

A comprehensive product stewardship plan must be developed and maintained, after the plan is submitted to and approved by the Department. If the Department disapproves the plan, it shall notify the manufacturer in writing, identify what is necessary to correct deficiencies in the plan, and specify a due date for submission of a revised plan. If the plan is not resubmitted by the due date or does not address all of the deficiencies, the plan will be considered to be non-compliant with this section.

(2)

Each product stewardship plan must include: (A) A list of, and contact information for, participating manufacturers, importers, and other participating persons. (B) The scope of products and brands to be covered by the plan. (C) The roles and responsibilities for manufacturers, importers, assemblers, retailers, consumers, and government throughout the life cycle of the product, and identification of retailers and/or assemblers who have agreed to participate in the program. (D) Identification and description of collection systems that will be used. (E) End-of-life management information that describes the steps that will be taken to ensure compliance with all applicable federal and California State and local laws, and that addresses any adverse multimedia impacts. (F) Identification of anticipated resources needed to implement and sustain the plan, which must ensure that the end-of-life management program is maintained for sufficient time to be available at the end-of-life for the last covered product, and all previous covered products, that the manufacturer places into the stream of commerce in California. An estimate of the annual and total long-term

program costs shall also be identified in the plan, along with the information, assumptions, calculations, and any models used to develop the cost estimate. (G) The funding mechanism to cover, but not exceed, the costs identified in subparagraph (F). This requirement shall be satisfied by whichever of the following means is applicable:

1. If the end-of-life management program will be administered by a non-profit third-party product stewardship organization under subsection (b), the plan shall describe how the organization will collect operating revenues in an amount necessary to cover, but not exceed, the costs identified in subparagraph (F). This shall include the method and calculations used to determine how much each participant will contribute.
2. If an individual manufacturer is administering and funding its own end-of-life management program, the manufacturer shall provide a financial guarantee that will ensure that adequate funding is available to cover the costs identified in subparagraph (F).

(H) Program performance goals, which shall be quantitative to the extent feasible, for:

1. Increasing the capture rate of covered products at the end-of-life; and
2. Increasing recyclability and recycling rate.

(I) A description of how each program goal will be achieved. (J) Public education, outreach, and communications plans. (K) A description of public and stakeholder consultation activities during preparation of the plan, which shall include, at a minimum, provision of thirty (30) days for the public to comment on the proposed product stewardship plan through the manufacturer's website. The manufacturer shall transmit to the Department all comments received concurrent with submittal of the plan. (L) A description of public and stakeholder consultation activities for review and updating of the plan, which shall occur no less frequently than annually. (M) Reporting and evaluation procedures.

(A)

A list of, and contact information for, participating manufacturers, importers, and other

participating persons.

(B)

The scope of products and brands to be covered by the plan.

(C)

The roles and responsibilities for manufacturers, importers, assemblers, retailers, consumers, and government throughout the life cycle of the product, and identification of retailers and/or assemblers who have agreed to participate in the program.

(D)

Identification and description of collection systems that will be used.

(E)

End-of-life management information that describes the steps that will be taken to ensure compliance with all applicable federal and California State and local laws, and that addresses any adverse multimedia impacts.

(F)

Identification of anticipated resources needed to implement and sustain the plan, which must ensure that the end-of-life management program is maintained for sufficient time to be available at the end-of-life for the last covered product, and all previous covered products, that the manufacturer places into the stream of commerce in California. An estimate of the annual and total long-term program costs shall also be identified in the plan, along with the information, assumptions, calculations, and any models used to develop the cost estimate.

(G)

The funding mechanism to cover, but not exceed, the costs identified in subparagraph (F).

This requirement shall be satisfied by whichever of the following means is applicable: 1. If the end-of-life management program will be administered by a non-profit third-party product stewardship organization under subsection (b), the plan shall describe how the organization will collect operating revenues in an amount necessary to cover, but not exceed, the costs

identified in subparagraph (F). This shall include the method and calculations used to determine how much each participant will contribute. 2. If an individual manufacturer is administering and funding its own end-of-life management program, the manufacturer shall provide a financial guarantee that will ensure that adequate funding is available to cover the costs identified in subparagraph (F).

1.

If the end-of-life management program will be administered by a non-profit third-party product stewardship organization under subsection (b), the plan shall describe how the organization will collect operating revenues in an amount necessary to cover, but not exceed, the costs identified in subparagraph (F). This shall include the method and calculations used to determine how much each participant will contribute.

2.

If an individual manufacturer is administering and funding its own end-of-life management program, the manufacturer shall provide a financial guarantee that will ensure that adequate funding is available to cover the costs identified in subparagraph (F).

(H)

Program performance goals, which shall be quantitative to the extent feasible, for: 1. Increasing the capture rate of covered products at the end-of-life; and 2. Increasing recyclability and recycling rate.

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Increasing the capture rate of covered products at the end-of-life; and

2.

Increasing recyclability and recycling rate.

(I)

A description of how each program goal will be achieved.

(J)

Public education, outreach, and communications plans.

(K)

A description of public and stakeholder consultation activities during preparation of the plan, which shall include, at a minimum, provision of thirty (30) days for the public to comment on the proposed product stewardship plan through the manufacturer's website. The manufacturer shall transmit to the Department all comments received concurrent with submittal of the plan.

(L)

A description of public and stakeholder consultation activities for review and updating of the plan, which shall occur no less frequently than annually.

(M)

Reporting and evaluation procedures.

(3)

The product stewardship program and plan for collecting and, if applicable, recycling the product shall be developed in consultation with California retailers and other owners/operators of prospective collection sites.

(4)

The manufacturer shall provide its product stewardship plan to the Department for review and approval, post a copy of the product stewardship plan on its own website, and provide that link to the Department for posting on the Department's website.

(5)

The manufacturer of a product subject to this section shall provide an annual report to the Department. The annual report is due one (1) year from the date the end-of-life management program is required to be implemented, and annually thereafter. The report must include, by total tonnage: (A) The quantity of products placed into the stream of commerce in California over the previous one-year period; and (B) The

quantity of products recovered over the same one-year period.

(A)

The quantity of products placed into the stream of commerce in California over the previous one-year period; and

(B)

The quantity of products recovered over the same one-year period.

(d)

Alternative End-of-Life Programs. A manufacturer subject to this section may request the Department's approval to substitute an alternative end-of-life management program that achieves, to the maximum extent feasible, the same results as the program required by this section. If a manufacturer's alternative end-of-life management program relies on other persons, the manufacturer shall provide written substantiation of their agreement to participate at a level necessary to insure successful implementation of the plan as proposed. A manufacturer may not substitute an alternative end-of-life management program for the program specified in this section unless it receives advanced written approval from the Department.

(e)

Exemption from End-of-Life Program Requirements.(1) A manufacturer subject to this section may request an exemption from the requirement to provide an end-of-life management program by demonstrating to the Department's satisfaction in the AA Report that an end-of-life management program cannot feasibly be implemented for the product. (2) A manufacturer subject to this section is not exempt from this section until it receives written concurrence from the Department that an end-of-life management program cannot feasibly be implemented for the product.

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A manufacturer subject to this section may request an exemption from the requirement to provide an end-of-life management program by demonstrating to the Department's satisfaction in the AA Report that an end-of-life management program cannot feasibly be implemented for the product.

(2)

A manufacturer subject to this section is not exempt from this section until it receives written concurrence from the Department that an end-of-life management program cannot feasibly be implemented for the product.