

**MECHANISMS FOR LISTING AND DELISTING CHEMICALS
UNDER PROPOSITION 65
April 2007**

The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65) requires the State to publish a list of chemicals known to cause cancer or reproductive toxicity, and to update the list at least annually in light of additional knowledge (Health and Safety Code section 25249.8). The statute defines four mechanisms by which carcinogens and reproductive toxicants are listed. First, a chemical must be listed if one of the State's Qualified Expert committees decides that a chemical has been clearly shown to cause cancer or reproductive toxicity through scientifically valid testing according to generally accepted principles. Second, a chemical must be listed if it is formally identified as a carcinogen or reproductive toxicant by a body considered authoritative under Proposition 65. Third, a chemical must be listed if a State or federal agency formally requires it to be identified or labeled as a carcinogen or reproductive toxicant. Fourth, a chemical must be listed if it is identified by reference in Labor Code section 6382(b)(1) or (d).

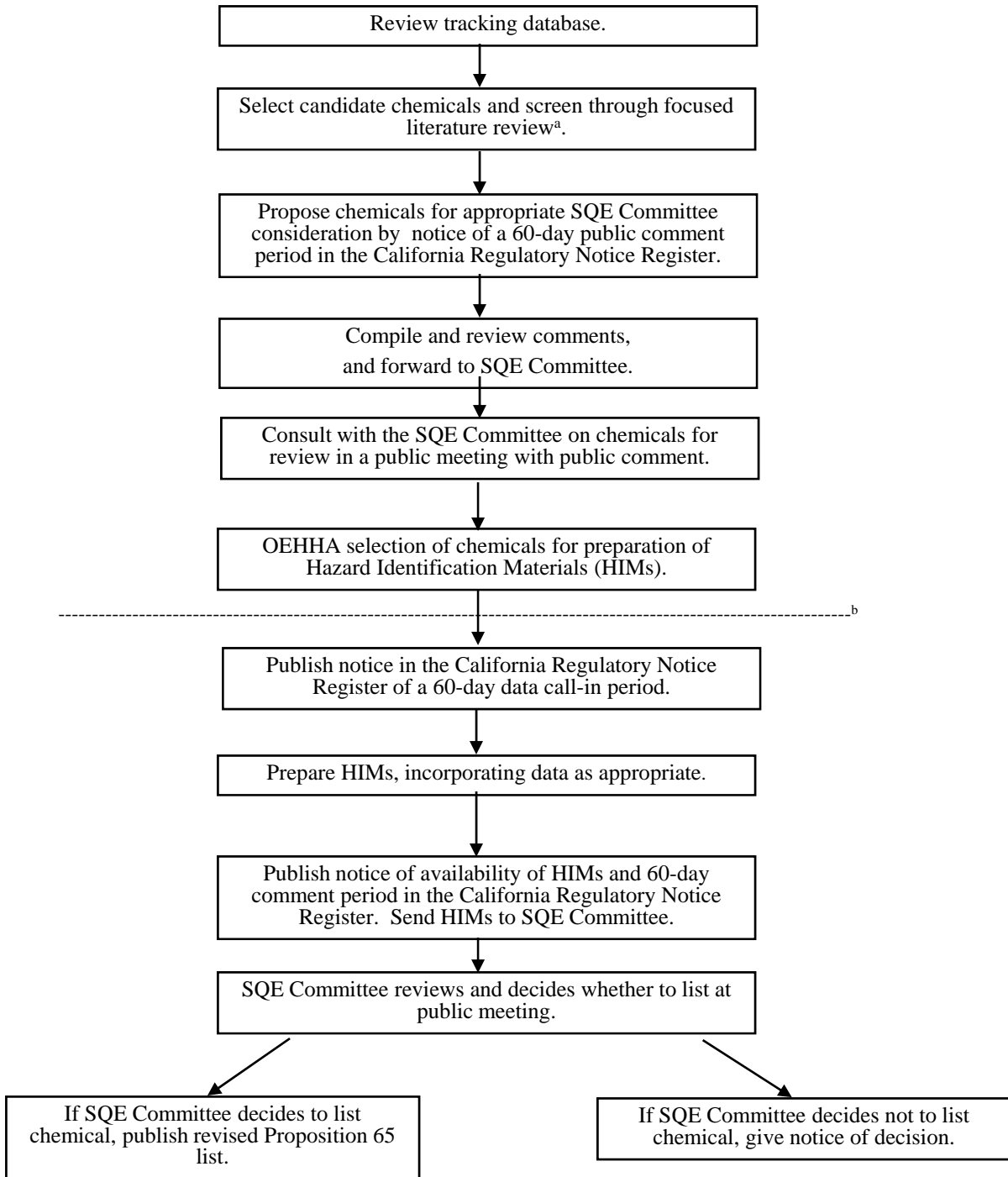
The Office of Environmental Health Hazard Assessment (OEHHA) has previously posted on its web site several narrative and graphical descriptions of the listing and delisting mechanisms in either draft or final form. These descriptions are now out of date, particularly since the Process for Prioritizing Chemicals for Consideration under Proposition 65 by the "State's Qualified Experts" was revised. See http://www.oehha.ca.gov/prop65/CRNR_notices/state_listing/pdf/finalPriordoc.pdf. Therefore, the outdated descriptions have been removed from the web site. They have been replaced with the eight separate flow charts that describe each procedure followed to add chemicals to the Proposition 65 list or to remove chemicals, according to the statutory or regulatory requirements for that mechanism:

- Figure 1: Listing via the State's Qualified Experts (SQEs) Mechanism.
- Figure 2: Listing via the Authoritative Bodies (AB) Mechanism.
- Figure 3: Listing via the Formally Required Mechanism.
- Figure 4: Listing Chemicals Identified via Labor Code section 6382(b)(1) or (d).
- Figure 5: Reconsideration of Chemicals Listed via the SQEs Mechanism.
- Figure 6: Reconsideration of Chemicals Listed via the AB Mechanism.
- Figure 7: Reconsideration of Chemicals Listed via the Formally Required Mechanism.
- Figure 8: Reconsideration of Chemicals Identified via Labor Code section 6382(b)(1) & (d).

Although listing and delisting activities are expressly excluded from the requirements of the Administrative Procedure Act by Health and Safety Code section 25249.8(e), each procedure involves, at a minimum, public notice that chemicals are under consideration, solicitation of comments, deliberation on comments received, and notice of the final decision, but the procedures differ somewhat for each mechanism. Each flow chart identifies the specific authority for that mechanism. These flow charts describe OEHHA's practice and do not themselves have any mandatory or regulatory effect.

For questions regarding Proposition 65, please contact Cynthia Oshita in the Proposition 65 Implementation Program at (916) 445-6900 or coshita@oehha.ca.gov.

**Listing via the State's Qualified Experts (SQEs) Mechanism;
Health and Safety Code §25249.8(b) and 27 Cal. Code Regs. §25305***



^a First health screen based on epidemiological evidence; subsequent health screens may be based on animal evidence.

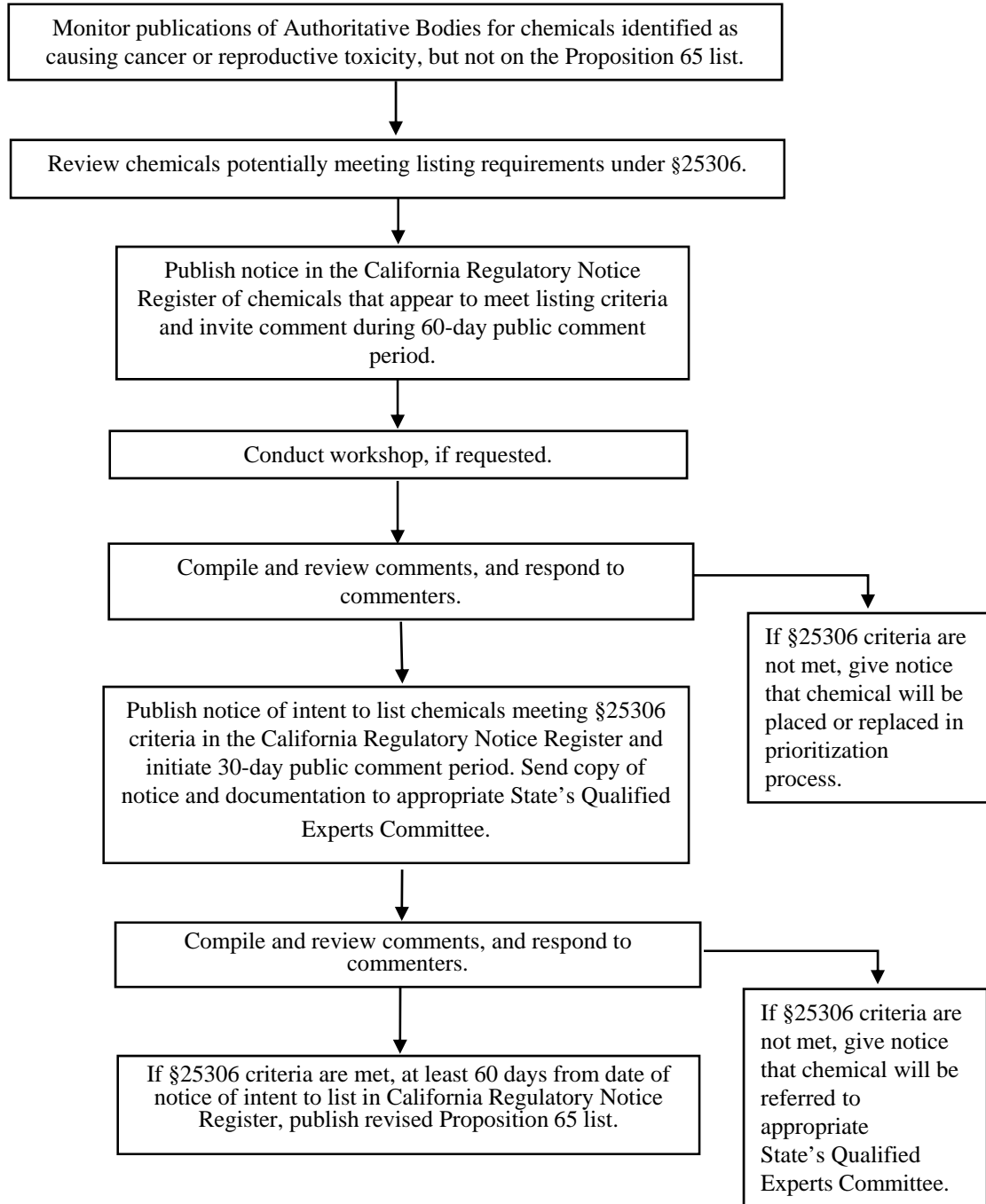
^b Dotted line indicates where the prioritization process ends and hazard identification process begins.

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Figure 1

* Formerly Title 22 California Code of Regulations, section 12305

Listing via the Authoritative Bodies (AB) Mechanism; 27 Cal. Code Regs. §25306*

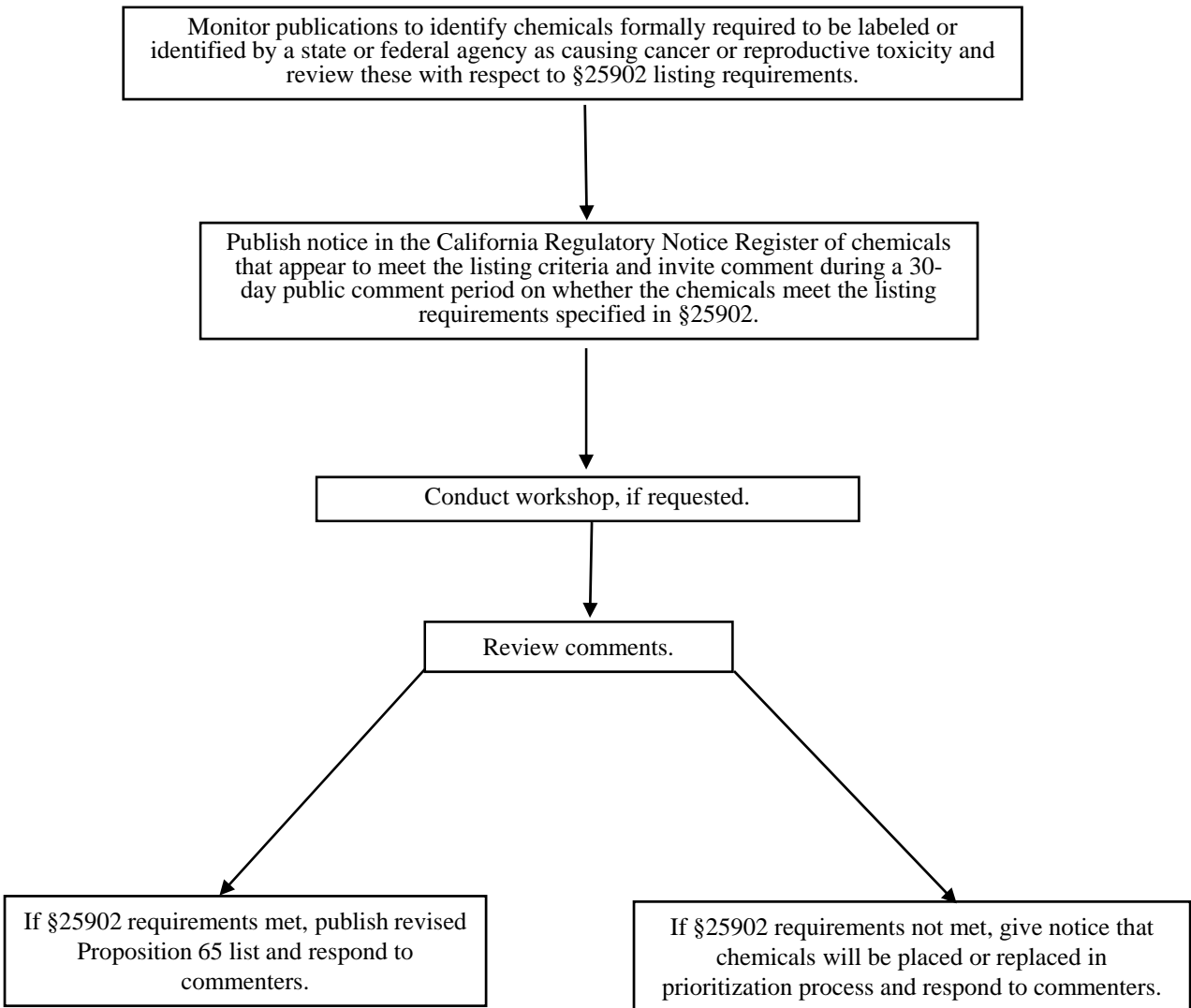


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Figure 2

* Formerly Title 22 California Code of Regulations, section 12306

**Listing via the Formally Required Mechanism;
27 Cal. Code Regs. §25902***

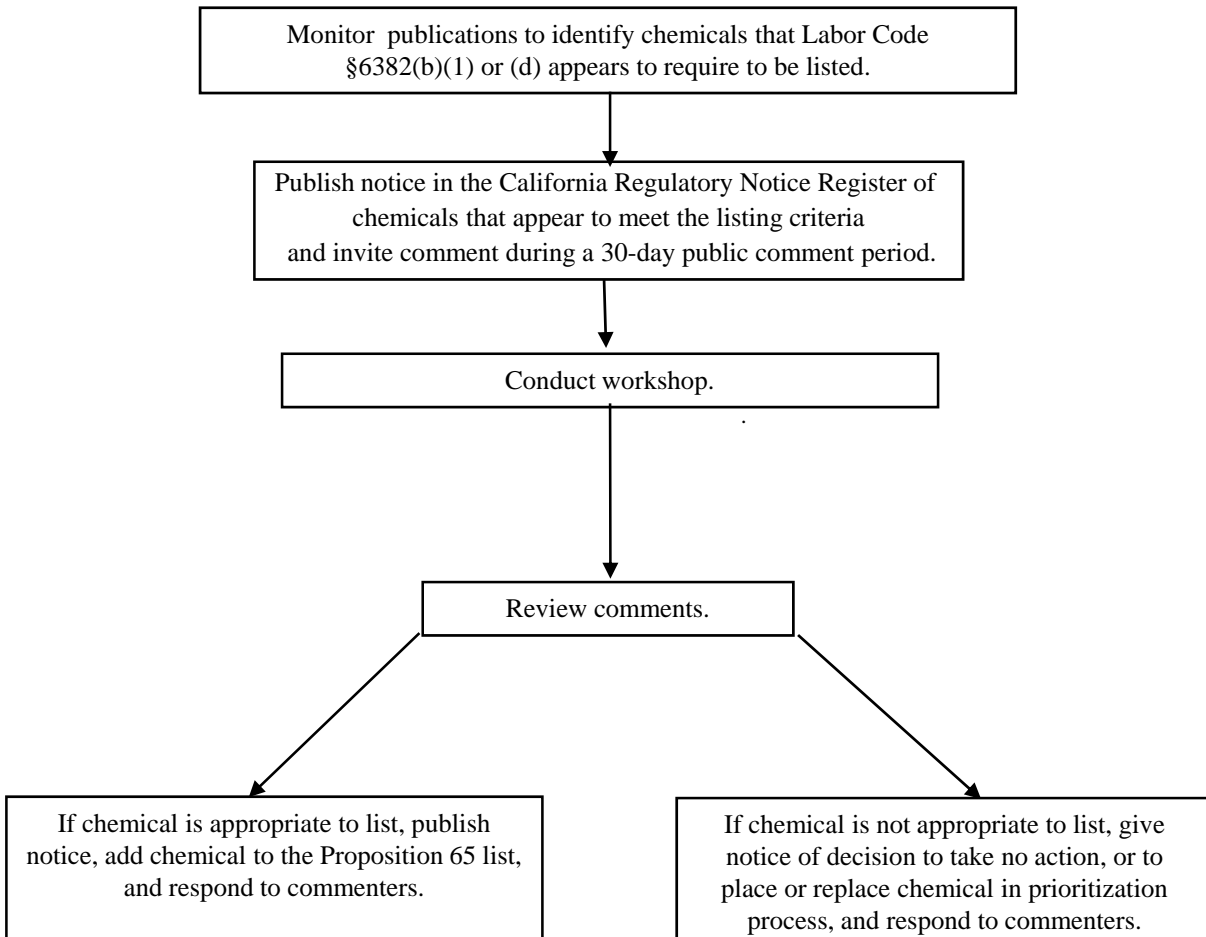


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Figure 3

* Formerly Title 22 California Code of Regulations, section 12902

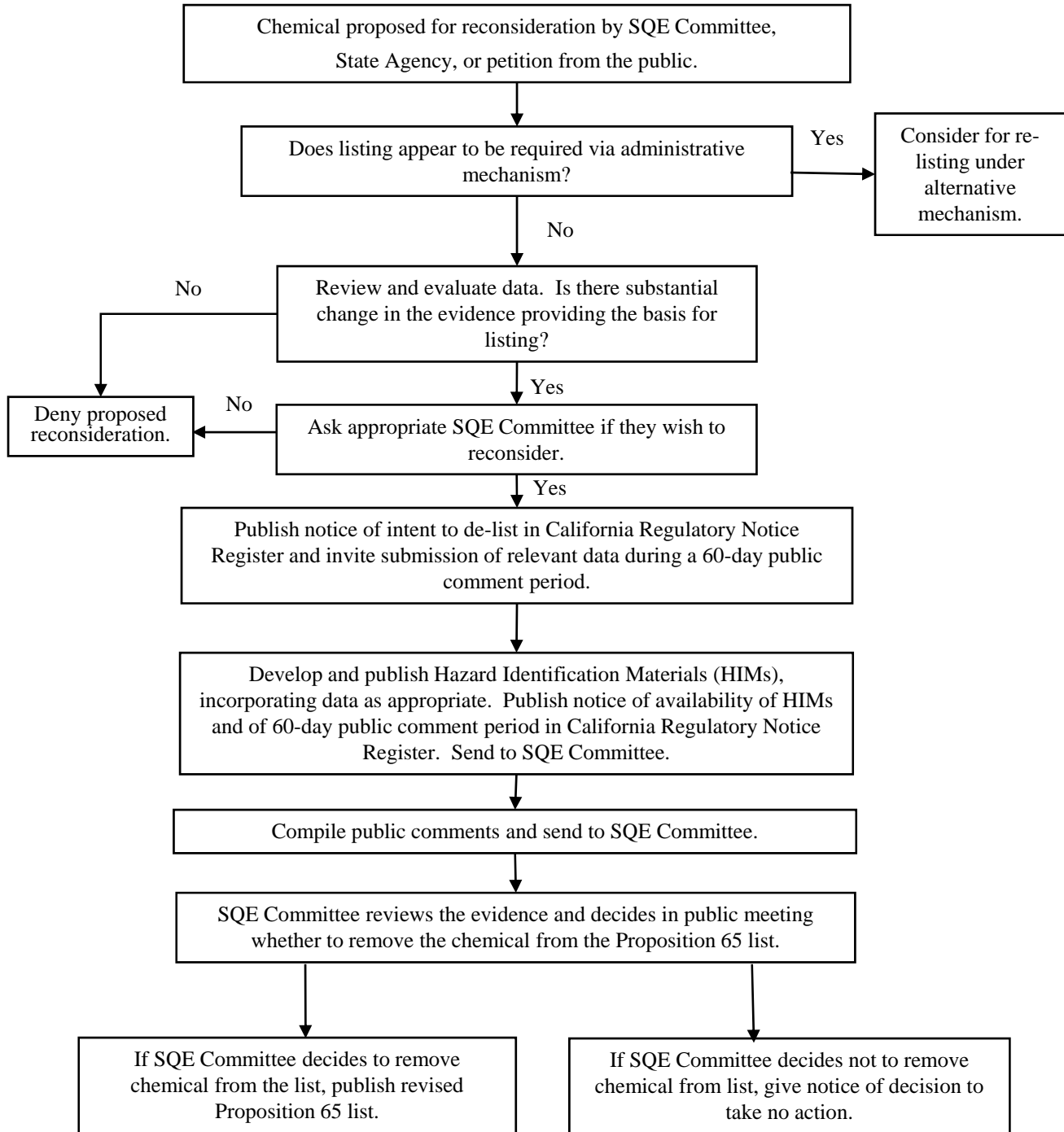
**Listing Chemicals Identified Via Labor Code
§6382(b)(1) or (d);
Health and Safety Code §25249.8(a)**



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Figure 4

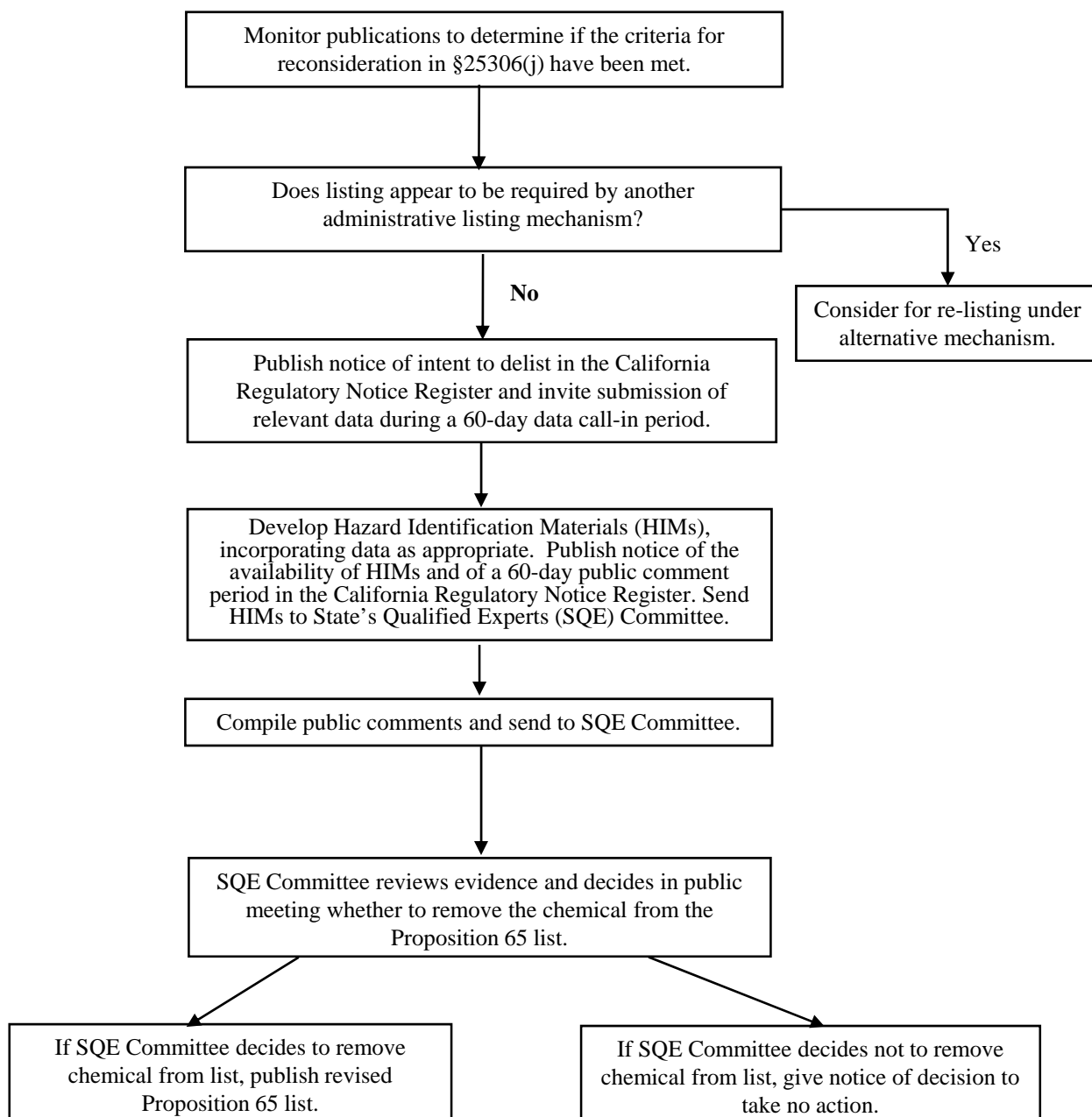
Reconsideration of Chemicals Listed via the State's Qualified Experts (SQEs) Mechanism; Health and Safety Code §25249.8(b)



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Figure 5

**Reconsideration of Chemicals Listed via the
Authoritative Bodies (AB) Mechanism;
27 Cal. Code Regs. §25306***

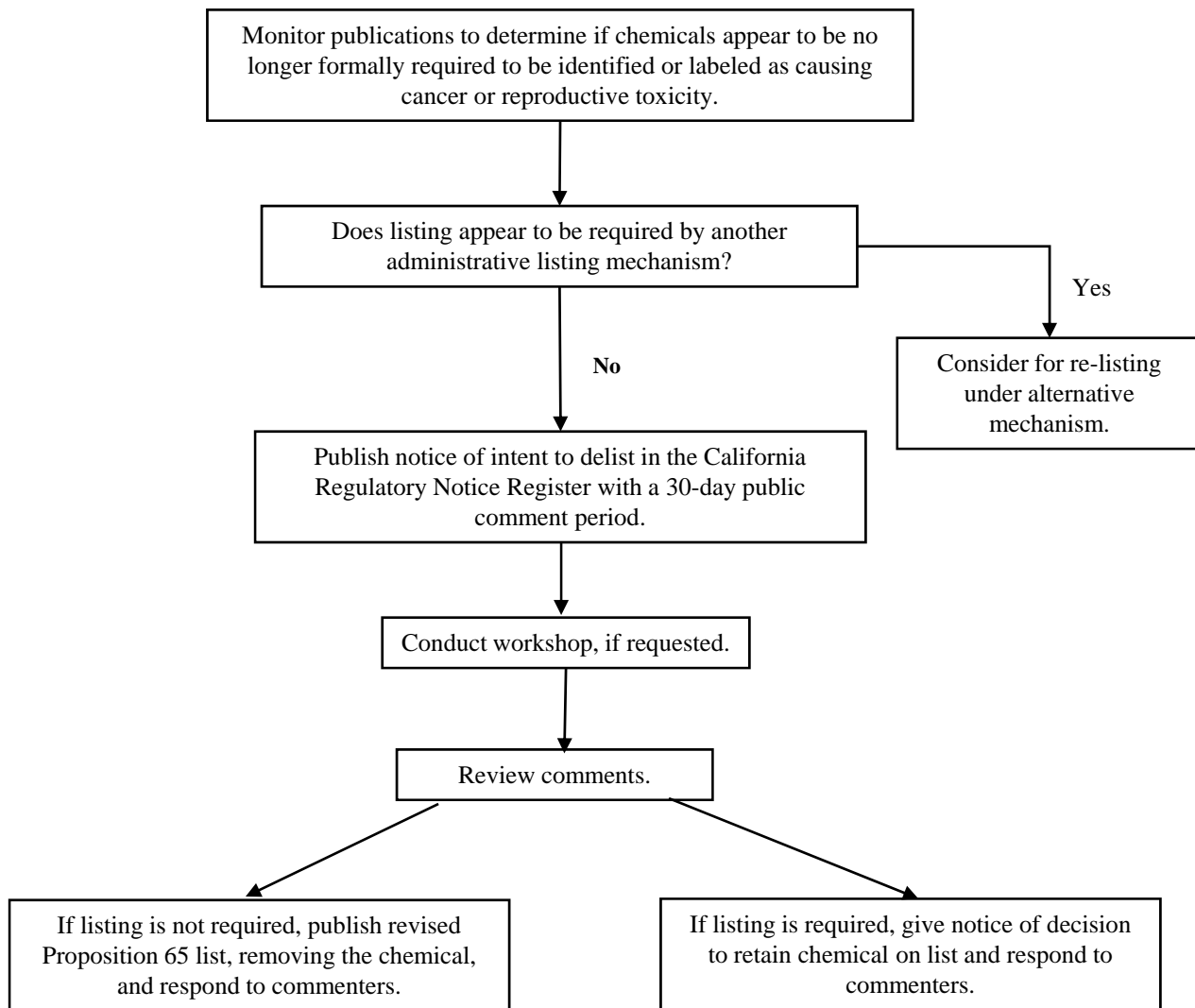


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Figure 6

* Formerly Title 22 California Code of Regulations, section 12306

Reconsideration of Chemicals Listed via the Formally Required Mechanism; 27 Cal. Code Regs. §25902*



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Figure 7

* Formerly Title 22 California Code of Regulations, section 12902

**Reconsideration of Chemicals Identified Via Labor
Code §6382(b)(1) and (d);
Health and Safety Code §25249.8(a)**

