

Amendments to Proposition 65 Warning Regulations

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Topics Covered

- Background
- What are the goals of the proposed regulations?
- Who will be covered by the proposed warning regulations?
- What will the warnings likely contain?
- When will the regulations become effective?

Background on proposed regulations



Proposition 65

“No person in the course of doing business shall **knowingly and intentionally expose** any individual to a chemical known to the state to cause cancer or reproductive toxicity without first giving **clear and reasonable warning** to such individual....”

Health & Safety Code Section 25249.6

What are the goals of the proposed regulations?



Goals of Proposed Regulations

- Provide compliance assistance for businesses;
- Bring consistency to Proposition 65 warnings;
- Facilitate the public's understanding of the warnings; and
- Provide a central place people can go to obtain supplemental science-based information.

Who will be covered by the regulations?



Who will be covered by these regulations?

- **Any person who has determined that they are required to provide a Proposition 65 warning.**
- These regulations apply only to circumstances where a warning is required.
- Determination of whether to warn is made by business and is not addressed by these regulations.
- Because this is a “safe harbor”, business may still use its own warnings.

What will the regulations likely contain?



Article 6: Clear and Reasonable Warnings

- The article is divided into two subarticles
- Subarticle 1 sets forth general provisions that apply throughout the article
- Subarticle 2 addresses safe harbor warning methods and content

Article 6: Clear and Reasonable Warnings

Subarticle 1: General

- General provisions
- Definitions
- Responsibility to provide warnings

Section 25600.1

Definitions

- Clarifications and modifications
- Minor clarifying changes to “Environmental Exposure,” “Food”, “Label/Labeling,” “Sign,” and “Occupational Exposure” definitions.

Section 25600.2 – Responsibility to Provide Warnings

- Clarifies responsibilities of product manufacturer or distributor, as compared to retail sellers.
- Responds to concerns from retailers about lack of information, as well as concerns from manufacturers and distributors about the potential for warnings to be obscured.

Subarticle 2: Safe Harbor Methods and Content

- Safe harbor methods and content
- Chemical names included in warnings
- Product and Environmental exposure warning methods and content
- Occupational warnings

Subarticle 2: Safe Harbor Methods and Content, cont.

- Specific product, chemical and area exposure warnings, e.g. “tailored warnings”
 - Petroleum products warnings
 - Diesel engine warnings (other than passenger vehicles)
 - Passenger Vehicle exposure warnings
 - Service station and vehicle repair facilities warnings

Section 25601

Clear and Reasonable Warnings

- Retained optional “safe harbor.”
- New opportunities to request tailored warnings.
- More guidance and support for businesses.
- Does not apply to a business’ decision *whether* to apply a warning.

Section 25602 – Chemicals included in the Text of a Warning

- Acrylamide
- Arsenic
- Benzene
- Cadmium
- Carbon Monoxide
- Chlorinated Tris
- Formaldehyde
- Hexavalent Chromium
- Lead
- Mercury
- Methylene Chloride
- Phthalate[s]

Section 25603 – Product Exposure Warnings

- Traditional and electronic methods allowed
- Content must include:
 - The warning symbol 
 - The word “**WARNING**”
 - Optional on-product text: “Cancer Hazard” or “Reproductive Hazard”
 - “Can expose you to [chemical name]” (if required to be identified)
 - The URL: www.P65Warnings.ca.gov.

Section 25607

Occupational Exposure Warnings

- Occupational warnings that comply with federal and California hazard communications standards meet the requirements of these regulations
- Still may need to provide warnings for non-occupational exposures

Section 25608 - Specific Product, Chemical and Area Exposure Warnings

- Certain types of exposures may require “tailored warnings.”
- Welcome requests from stakeholders regarding the need for more tailored warnings (content or methods)

Section 25608.24 – Service Station and Vehicle Repair Facilities Warnings (Environmental Exposures) – Methods of Transmission

- Vehicle repair facilities:
 - Posted at each public entrance to the repair facility on a sign printed in no smaller than 32-point type
 - If there is other signage at the facility in a language other than English the warning must be in English and the other language

Section 25608.25 – Service Station and Vehicle Repair Facilities Warnings (Environmental Exposures) – Content

- Warning must include:
 - The warning symbol 
 - The word “**WARNING**”
 - The words: “Breathing the air in this area or skin contact with petroleum products can expose you to chemicals that are known to the State of California to cause cancer or birth defects or other reproductive harm, such as benzene, motor vehicle exhaust and carbon monoxide. For more information go to [www.P65Warnings.ca.gov/gasoline.](http://www.P65Warnings.ca.gov/gasoline)”

Lead Agency Website

- Site developed and maintained by OEHHA.
- Provides public information regarding chemicals, exposures, ways to minimize exposures, and other key information.
- OEHHA may request information related to products from companies.
- Allows process for business to request that information requested by OEHHA be treated as Confidential Business Information

When will the regulations likely become effective?



Estimated Timeline

- January 16, 2015 - Formal regulatory process begins
- March 25, 2015 - Public hearing
- April 8, 2015 - Public comment period closes
- Review comments; revise regulations as needed
- No later than January 16, 2016 - Adopt final regulations
- Two-year phase-in for compliance with new regulations

Questions?

