

Q. What is Prop 65?

A: In 1968, California voters approved an initiative to address their growing concerns about exposure to toxic chemicals. That initiative became the Safe Drinking Water and Toxic Enforcement Act of 1986, better known by its original name of Proposition 65. Proposition 65 requires the State of California to publish a list of chemicals known to cause cancer, birth defects or other reproductive harm. This list has grown to include approximately 900 chemicals since it was first published in 1987. Businesses are required to provide a “clear and reasonable” warning before knowingly and intentionally exposing anyone to a listed chemical that is above the safe harbor level. Under Proposition 65, private citizens or groups bring their own enforcement actions whenever they can show a chemical is in a product for which no warning was provided.

Q: What does Prop 65 Require?

A: Prop 65 requires anyone doing business in California to label a product if human exposure to a listed substance in the product is expected to be at a level above the established “safe harbor” level for that substance.

Q: What is a “safe harbor” level for a substance?

A: The “safe harbor” level also known as the “no significant risk level” (NSRL) is defined as the level of exposure that would result in not more than one excess case of cancer or reproductive toxicity in 100,000 individuals exposed to the substance over a 70-year lifetime. In other words, a person exposed to the substance at the “no significant risk level” for 70 years would not have more than a “one in 100,000” chance of developing cancer as a result of that exposure. A business has a “safe harbor” from Prop 65 warning requirements if exposure to a substance occurs at or below the NSRL.

Q: What items are on this list that applies to protective gear?

A: Phthalates or chemicals used to Diisononyl phthalate (DINP) is used to soften or “plasticize” vinyl. DINP is a general purpose plasticizer used in a multitude of vinyl products that demand flexibility, durability and specific functionality. While DINP’s primary function is as a softener, it is also used in sealants, paints and lubricants.

Q: Are phthalates banned by a Prop 65 listing?

A: No. As stated by OEHHA, Prop 65 “does not ban or restrict the use of any given chemical.” It is not a regulation or a restriction on use; it is merely a labeling requirement that applies in certain instances. Prop 65 is a California law and this listing does not affect other U.S. states or regulations in other countries.

Q: Does a Prop 65 listing mean that product is unsafe?

A: No. A Prop 65 listing is not a safety determination. Indeed, according to OEHHA, the purpose of Prop 65 is to notify consumers that they may be exposed to a listed substance, but a Prop 65 product warning label does not mean that a product is in “violation of any product-safety standards.” As noted above, the State may develop a No Significant Risk Level (NSRL) that would be a “safe harbor” level establishing the level of exposure that would result in not more than one excess case of cancer in 100,000 individuals exposed to the substance over a 70-year lifetime.

Q: Will products containing DINP need to be labeled in California?

A: If exposure is below the calculated NSRL, Prop 65 warning labels will not be required for these products.

Q: When will the warning requirement for DINP be in effect?

A: DINP was added to the list of chemicals known to the State of California to cause cancer on December 20, 2013. The warning requirement becomes effective a year from that date, December 20, 2014.

Source: American Chemistry Council and OEHHA