

# PRE-REGULATORY WORKSHOP

Regulatory concept for Section 25904,  
Title 27, California Code of Regulations:  
Chemical Listings By Reference to the  
California Labor Code



# Background

OEHHA responsible for maintaining Proposition 65 list

One of four ways chemicals are added to Proposition 65 list:

- Chemicals *“identified by reference”* in California Labor Code subsections 6382(b)(1) and (d).

(Health and Safety Code Section 25249.8)



# Background

(continued)

## Labor Code subsection 6382(b)(1):

- “Substances listed as human or animal carcinogens by the International Agency for research on Cancer (IARC).”

## Labor Code section 6382(d):

- “Notwithstanding Section 6381, in addition to those substances on the director's list of hazardous substances, any substance within the scope of the federal Hazard Communication Standard (29 C.F.R. Sec. 1910.1200) is a hazardous substance subject to this chapter.”



# Purpose

Although not required by statute, OEHHA has adopted regulations setting out the criteria used for listing chemicals via each listing mechanism except the Labor Code listing mechanism.

To ensure transparency, certainty and clarity, OEHHA has determined that proposing to adopt a regulation for the Labor Code listing mechanism is appropriate.



# Labor Code Listing Criteria



On DIR  
Director's  
List Title 8,  
Cal. Code  
Reg.,  
section 339

In Title 29  
CFR part  
1910.1200  
subpart Z

On NTP  
Report on  
Carcinogens  
based on  
sufficient  
animal or  
human  
evidence

Identified by  
IARC based  
on sufficient  
animal or  
human  
evidence



# Conceptual Regulatory Text

## Section 25904 Chemical Listings by Reference to the California Labor Code

- (a) Pursuant to Section 25249.8(a), of the Act, a chemical shall be included on the list of chemicals known to the state to cause cancer or reproductive toxicity if it is a substance identified by reference in Labor Code Section 6382(b)(1) or by reference in Labor Code Section 6382(d) as causing cancer or reproductive toxicity.
  - (1) A chemical shall be included on the list if it is on the most recent edition of California Department of Industrial Relations Hazardous Substances List contained in Title 8, California Code of Regulations, section 339, if a basis for the chemical being placed on the Director's List is that the chemical causes cancer or reproductive or developmental toxicity based on sufficient animal or human evidence.



# Conceptual Regulatory Text

(Continued)

## Section 25904(a)

(2) A chemical shall be included on the list if it is identified as causing cancer or reproductive or developmental toxicity based on sufficient animal or human evidence by reference in the most recent version of Title 29 of the Code of Federal Regulations, part 1910.1200, subpart Z, Toxic and Hazardous Substances, adopted by the federal Occupational Safety and Health Administration.



# Conceptual Regulatory Text

(Continued)

## Section 25904(a)

(3) A chemical shall be included on the list if it is identified in the latest edition of the National Toxicology Program Report on Carcinogens based on sufficient animal or human evidence as:

- a. A human carcinogen
- b. A potential human carcinogen



# Conceptual Regulatory Text

(Continued)

## Section 25904(a)

(4) A chemical shall be included on the list if it is identified by the International Agency for Research on Cancer in its IARC Monographs series on the Evaluation of Carcinogenic Risks to Humans (most recent edition), based on sufficient animal or human evidence as:

- a. Carcinogenic to humans (Group 1)
- b. Probably carcinogenic to humans (Group 2A)
- c. Possibly carcinogenic to humans (Group 2B)



# Conceptual Regulatory Text

(Continued)

## Section 25904

- (b) At least 45 days prior to adding a chemical to the list that meets the criteria established in section (a), the lead agency shall publish a notice of intent to list the chemical and provide a 30 day public comment period on whether or not the chemical has been identified by reference in either Labor Code section 6382(b)(1) or 6382(d) or both as causing cancer or reproductive toxicity.
- (c) Any person may petition the lead agency to consider adding a chemical to the list pursuant to this section. The petition shall identify the chemical in question, the provision of subdivision (a) above that provides the basis for listing and any other information necessary to determine whether the chemical meets the requirements of this section.



# Conceptual Regulatory Text

(Continued)

## Section 25904

(d) If the lead agency determines that a listed chemical no longer meets the criteria in this Section, the lead agency shall determine if the criteria for listing established in Section 25306 or Section 25902 are met. If the criteria in those sections are not met, the lead agency must refer the chemical to the appropriate committee established in Section 25302, namely the Carcinogen Identification Committee or the Developmental and Reproductive Toxicant Identification Committee, for a recommendation as to whether the chemical should continue to be included on the list of chemicals known to the state to cause cancer or reproductive toxicity. The chemical shall remain on the list pending review by the Carcinogen Identification Committee or the Developmental and Reproductive Toxicant Identification Committee.



# Next Steps

Interested parties may submit their ideas on these conceptual regulations in writing by 5:00 p.m. on July 1, 2013.

Please indicate “Labor Code Workshop” in the subject line. All submissions should be directed to:

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Assessment  
1001 I Street  
Sacramento, CA 95812

Or via e-mail to

[P65Public.Comments@oehha.ca.gov](mailto:P65Public.Comments@oehha.ca.gov)

