

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

NOTICE OF PROPOSED RULEMAKING

TITLE 22, CALIFORNIA CODE OF REGULATIONS

AMENDMENT TO SECTION 12705.
SPECIFIC REGULATORY LEVELS POSING NO SIGNIFICANT RISK

AMENDMENT TO SECTION 12805.
SPECIFIC REGULATORY LEVELS: REPRODUCTIVE TOXICANTS

NOTICE IS HEREBY GIVEN that the Office of Environmental Health Hazard Assessment proposes to establish specific regulatory levels posing no significant risk for chloroethane; di(2-ethylhexyl)phthalate (DEHP); lead; lead acetate; lead phosphate; lead subacetate; methylhydrazine; methylhydrazine sulfate; 5-morpholinomethyl-3-[(5-nitrofurfurylidene)-amino]-2-oxazolidinone; MX (3-chloro-4-(dichloromethyl)-5-hydroxy-2(5*H*)-furanone); phenylhydrazine; phenylhydrazine hydrochloride; polygeenan; carbazole; MeIQ (2-amino-3,4-dimethylimidazo[4,5-*f*]quinoline); MeIQx(2-amino-3,8-dimethylimidazo[4,5-*f*]quinoxaline); methyl carbamate; 4-(*N*-nitrosomethylamino)-1-(3-pyridyl)-1-butanone; and trimethyl phosphate and amend Title 22, California Code of Regulations, Section 12705(b), 12705(c)(2) and 12705(d), and to establish specific regulatory levels having no observable effect for arsenic (inorganic oxides), benzene, cadmium, and quizalofop ethyl and amend Title 22, California Code of Regulations, Section 12805.

PUBLIC PROCEEDINGS

A public hearing will be held on **July 23, 2001**, at which time any person may present statements or arguments orally or in writing relevant to the action described in this notice. The public hearing will commence at 10:00 a.m. in the Coastal Hearing Room, California Environmental Protection Agency Building, 1001 I Street, 2nd Floor, Sacramento, California and will last until all business has been conducted, or until 5:00 p.m.

Any written statements or arguments regardless of the form or method of transmission must be received by OEHHA by 5:00 p.m. on **July 23, 2001**, which is hereby designated as the close of the written comment period.

Written comments regarding this proposed action can be sent by mail or by fax addressed to:

Susan Luong
Office of Environmental Health Hazard Assessment
Proposition 65 Implementation Program
P. O. Box 4010
Sacramento, California 95812-4010
FAX: (916) 323-8803
Telephone: (916) 445-6900

Comments sent by courier should be delivered to:

Susan Luong
Office of Environmental Health Hazard Assessment
1001 I Street, 19th Floor
Sacramento, California 95814

Comments may also be transmitted via email addressed to: (sluong@oehha.ca.gov).

It is requested but not required that written statements or arguments be submitted in triplicate.

CONTACT

Please direct inquiries concerning processing of the action described in this notice to Susan Luong or Cynthia Oshita, in writing at the address given above, or by telephone at (916) 445-6900. Inquiries concerning the substance of the action may be directed to Colleen Heck, Chief Counsel, in writing at the address given above, or by telephone at (916) 324-2831.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Safe Drinking Water and Toxic Enforcement Act of 1986, commonly known as Proposition 65 (hereinafter referred to as “the Act”), prohibits a person in the course of doing business from knowingly and intentionally exposing any individual to a chemical that has been listed as known to cause cancer or reproductive toxicity without first giving clear and reasonable warning to such individual (Health and Safety Code Section 25249.6). The Act also prohibits such persons from knowingly discharging a listed chemical into water or onto or into land where such chemicals pass or probably will pass into any source of drinking water (Health and Safety Code Section 25249.5).

For chemicals known to the State to cause cancer, an exemption from the above requirements is provided by the Act when a person in the course of doing business is able to demonstrate that an exposure for which he or she is responsible poses no significant risk or that a discharge which otherwise complies with all applicable requirements would not cause any significant amount of the discharged or released chemical to enter any source of drinking water (Health and Safety Code Sections 25249.9 and 25249.10). A determination that a level of exposure poses no significant risk may be made utilizing

regulations that have previously been adopted by the Office of Environmental Health Hazard Assessment (22 CCR Sections 12701-12721). Section 12701 describes alternative methods for making such a determination. Section 12705 sets forth the process by which the Office of Environmental Health Hazard Assessment may identify specific regulatory levels for determining “no significant risk” for purposes of Proposition 65.

For chemicals known to the State to cause reproductive toxicity, an exemption from the warning requirement and discharge prohibition discussed above is provided by the Act when a person in the course of doing business can demonstrate that an exposure for which he or she is responsible produces no observable effect, assuming exposure at 1,000 times the level in question, or a discharge which otherwise complies with all applicable requirements would not cause any significant amount of the discharged or released chemical to enter any source of drinking water (Health and Safety Code Sections 25249.9 and 25249.10). One method by which a person in the course of doing business may determine whether an exposure or a discharge is exempt from the Act is by application of the specific regulatory level for the chemical in Section 12805. The levels in Section 12805 represent the maximum dose level at which the chemical has no observable reproductive effect, given an exposure at one thousand (1,000) times the level in question.

This amendment to Section 12705(b) would adopt the following “no significant risk” levels for chemicals listed as known to cause cancer:

Chemical	NSRL, in units micrograms per day	Reference
Chloroethane	150	OEHHA (2000a)
Di(2-ethylhexyl)phthalate (DEHP)	300	OEHHA (2000b)
Lead	15 (oral)	OEHHA (2000c)
Lead acetate	23 (oral)	OEHHA (2000c)
Lead phosphate	58 (oral)	OEHHA (2000c)
Lead subacetate	41 (oral)	OEHHA (2000c)
Methylhydrazine	0.058 (oral) 0.090 (inhalation)	OEHHA (2000d)
Methylhydrazine sulfate	0.18	OEHHA (2000d)
5-morpholinomethyl-3[(5-nitrofurfurylidene)-amino]-2-oxazolidinone	0.18	OEHHA (2000e)
MX (3-chloro-4-(dichloromethyl)-5-hydroxy-2(5H)-furanone)	0.11	OEHHA (2000f)
Phenylhydrazine	1.0	OEHHA (2000g)
Phenylhydrazine hydrochloride	1.4	OEHHA (2000g)
Polygeenan	1200	OEHHA (2000h)

The amendment to Section 12705(d) would adopt the following “no significant risk” levels for chemicals listed as known to cause cancer:

Chemical	NSRL, in units micrograms per day	Reference
Carbazole	4.1	OEHHA (2000i)
MeIQ (2-amino-3,4-dimethylimidazo[4,5- <i>f</i>]quinoline)	0.46	OEHHA (2000i)
MeIQx (2-amino-3,8-dimethylimidazo[4,5- <i>f</i>]quinoxaline)	0.41	OEHHA (2000i)
Methyl carbamate	160	OEHHA (2000i)
4-(N-Nitrosomethylamino)-1-(3-pyridyl)-1-butanone	0.014	OEHHA (2000i)
Trimethyl phosphate	24	OEHHA (2000i)

The amendment to Section 12805 would adopt the following regulatory levels for chemicals known to the state to cause reproductive toxicity:

Chemical	MADL, in units micrograms per day	Reference
Arsenic (inorganic oxides)	220	OEHHA (2000j)
Benzene	24 (oral) 49 (inhalation)	OEHHA (2000k)
Cadmium	4.1	OEHHA (2000l)
Quizalofop ethyl	590	OEHHA (2000m)

The risk assessments which were used by the Office of Environmental Health Hazard Assessment to determine the stated levels are as follows:

Office of Environmental Health Hazard Assessment (OEHHA, 2000a). No Significant Risk Level (NSRL) for the Proposition 65 Carcinogen Chloroethane. OEHHA Reproductive and Cancer Hazard Assessment Section, California Environmental Protection Agency, Oakland, May 2001.

Office of Environmental Health Hazard Assessment (OEHHA, 2000b). No Significant Risk Level (NSRL) for the Proposition 65 Carcinogen Di(2-ethylhexyl)phthalate (DEHP). OEHHA Reproductive and Cancer Hazard Assessment Section, California Environmental Protection Agency, Oakland, May 2001.

Office of Environmental Health Hazard Assessment (OEHHA, 2000c). No Significant Risk Level (NSRLs) for the Proposition 65 Carcinogens Lead and Lead Compounds (Oral). OEHHA Reproductive and Cancer Hazard Assessment Section, California Environmental Protection Agency, Oakland, May 2001.

Office of Environmental Health Hazard Assessment (OEHHA, 2000d). No Significant Risk Level (NSRLs) for the Proposition 65 Carcinogens Methylhydrazine and Methylhydrazine Sulfate. OEHHA Reproductive and Cancer Hazard Assessment Section, California Environmental Protection Agency, Oakland, May 2001.

Office of Environmental Health Hazard Assessment (OEHHA, 2000e). No Significant Risk Level (NSRL) for the Proposition 65 Carcinogen 5-Morpholinomethyl-3-[(5-nitrofurfurylidene)-amino]-2-oxazolidinone. OEHHA Reproductive and Cancer Hazard Assessment Section, California Environmental Protection Agency, Oakland, May 2001.

Office of Environmental Health Hazard Assessment (OEHHA, 2000f). No Significant Risk Level (NSRL) for the Proposition 65 Carcinogen MX (3-chloro-4-(dichloromethyl)-5-hydroxy-2(5*H*)-furanone). OEHHA Reproductive and Cancer Hazard Assessment Section, California Environmental Protection Agency, Oakland, May 2001.

Office of Environmental Health Hazard Assessment (OEHHA, 2000g). No Significant Risk Levels (NSRLs) for the Proposition 65 Carcinogens Phenylhydrazine and Phenylhydrazine Hydrochloride. OEHHA Reproductive and Cancer Hazard Assessment Section, California Environmental Protection Agency, Oakland, May 2001.

Office of Environmental Health Hazard Assessment (OEHHA, 2000h). No Significant Risk Level (NSRL) for the Proposition 65 Carcinogen Polygeenan. OEHHA Reproductive and Cancer Hazard Assessment Section, California Environmental Protection Agency, Oakland, May 2001.

Office of Environmental Health Hazard Assessment (OEHHA, 2000i). Expedited Cancer Potency Values and No Significant Risk Levels (NSRLs) for Six Proposition 65 Carcinogens: Carbazole, MeIQ, MeIQx, Methylcarbamate, 4-Nitrosomethylamino-1-(3-pyridyl)-1-butanone, and Trimethyl phosphate. OEHHA Reproductive and Cancer Hazard Assessment Section, California Environmental Protection Agency, Oakland, May 2001.

Office of Environmental Health Hazard Assessment (OEHHA, 2000j). Proposition 65 Maximum Allowable Daily Level (MADL) for Reproductive Toxicity for Arsenic (inorganic oxides). OEHHA Reproductive and Cancer Hazard Assessment Section, California Environmental Protection Agency, Sacramento, May 2001.

Office of Environmental Health Hazard Assessment (OEHHA, 2000k). Proposition 65 Maximum Allowable Daily Level (MADL) for Reproductive Toxicity for Benzene. OEHHA Reproductive and Cancer Hazard Assessment Section, California Environmental Protection Agency, Sacramento, May 2001.

Office of Environmental Health Hazard Assessment (OEHHA, 2000l). Proposition 65 Maximum Allowable Daily Level (MADL) for Reproductive Toxicity for Cadmium. OEHHA Reproductive and Cancer Hazard Assessment Section, California Environmental Protection Agency, Sacramento, May 2001.

Office of Environmental Health Hazard Assessment (OEHHA, 2000m). Proposition 65 Maximum Allowable Daily Level (MADL) for Reproductive Toxicity for Quizaolofop Ethyl. OEHHA Reproductive and Cancer Hazard Assessment Section, California Environmental Protection Agency, Sacramento, May 2001.

AUTHORITY

Health and Safety Code Section 25249.12.

REFERENCE

Health and Safety Code Sections 25249.5, 25249.6, 25249.9, 25249.10 and 25249.11.

IMPACT ON LOCAL AGENCIES OR SCHOOL DISTRICTS

OEHHA has determined the proposed regulatory action would not pose a mandate on local agencies or school districts nor does it require reimbursement by the State pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. The Office of Environmental Health Hazard Assessment has also determined that no nondiscretionary costs or savings to local agencies or school districts will result from the proposed regulatory action.

COSTS OR SAVINGS TO STATE AGENCIES

OEHHA has determined that no savings or increased costs to any State agency will result from the proposed regulatory action.

EFFECT ON FEDERAL FUNDING TO THE STATE

OEHHA has determined that no costs or savings in federal funding to the State will result from the proposed regulatory action.

EFFECT ON HOUSING COSTS

OEHHA has determined that the proposed regulatory action will have no effect on housing costs.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS, INCLUDING ABILITY TO COMPETE

OEHHA has made an initial determination that the adoption of the regulation will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

IMPACT ON THE CREATION, ELIMINATION, OR EXPANSION OF JOBS/BUSINESSES

OEHHA has determined that the proposed regulatory action will not have any impact on the creation or elimination of jobs, the creation of new businesses or the elimination of existing businesses, or the expansion of businesses currently doing business within the State of California.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

OEHHA is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

EFFECT ON SMALL BUSINESSES

OEHHA has determined that the proposed regulation does not affect small business as the term is defined by Government Code Section 11342.610 since Proposition 65 does not apply to businesses with fewer than ten employees.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), OEHHA has determined that no reasonable alternative considered by OEHHA, or that has otherwise been identified and brought to the attention of OEHHA would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

OEHHA has prepared and has available for public review an Initial Statement of Reasons for the regulation, all the critical information upon which the regulation is based, and the text of the regulation. A copy of the initial statement of reasons, a copy of the text of the regulation and copies of the risk assessments which were used by OEHHA to determine the NSRLs and MADLs are available upon request from OEHHA's Proposition 65 Implementation Program at the address and telephone number indicated above. These documents are also posted on OEHHA's Web site at www.oehha.ca.gov.

AVAILABILITY OF CHANGED OR MODIFIED TEXT: The full text of any regulation which is changed or modified from the express terms of the proposed action will be made available at least 15 days prior to the date on which OEHHA adopts the resulting regulation. Notice of the comment period on changed regulations and the full text will be mailed to individuals who testified or submitted oral or written comments at the public hearing, whose comments were received by OEHHA during the public comment period, and who request notification from OEHHA of availability of such

change. Copies of the notice and the changed regulation will also be available at the OEHHA's Web site at www.oehha.ca.gov.

FINAL STATEMENT OF REASONS

A copy of the final statement of reasons may be obtained, when it becomes available, from OEHHA's Proposition 65 Implementation Program at the address and telephone number indicated above. The final statement of reasons will also be available at the OEHHA's Web site at www.oehha.ca.gov.

OFFICE OF ENVIRONMENTAL
HEALTH HAZARD ASSESSMENT

JOAN E. DENTON, Ph.D.
Director

Dated: June 8, 2001