

Office of Environmental Health Hazard Assessment

Proposition 65
Regulatory Update Project
Labor Code Mechanism Regulatory Concept
Pre-Regulatory Workshop
June 17, 2008

Agenda

- Welcome/Introductions
 - Carol J. Monahan-Cummings, OEHHA Chief Counsel
- Overview – California Labor Code Listing Mechanism
- Statutes and Federal Regulations
- Regulatory Concept Language
- Public Comments/Discussion
- Wrap-up/Next Steps

Prop 65 and the Labor Code

Section 25249.8 List of Chemicals Known to Cause Cancer or Reproductive Toxicity

On or before March 1, 1987, the Governor shall cause to be published a list of those chemicals known to the state to cause cancer or reproductive toxicity within the meaning of this chapter, and he shall cause such a list to be revised and republished in light of additional knowledge at least once per year thereafter. **Such a list shall include at a minimum those substances identified by reference in Labor Code Section 6382(b)(1) and those substances identified additionally by reference in Labor Code Section 6382(d).**

California Labor Code Section 6382(b)(1)

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

California Labor Code Section 6382(d)

“... any substance within the scope of the federal Hazard Communication Standard (29 C.F.R. Sec. 1910.1200) ...”

OSHA Regulations

- Title 29, Code of Federal Regulations section 1910.1200 defines a “hazardous substance” as any chemical that is a physical hazard or a health hazard.
- “Health hazard” means a chemical for which there is statistically significant evidence based on at least one study conducted in accordance with established scientific principles that acute or chronic health effects may occur in exposed employees.

Identifying Chemical Hazards

- The term "health hazard" includes chemicals which are **carcinogens**, toxic or highly toxic agents, **reproductive toxins**, irritants, corrosives, sensitizers, hepatotoxins, nephrotoxins, neurotoxins, agents which act on the hematopoietic system, and agents which damage the lungs, skin, eyes, or mucous membranes.
- The federal regulations further provide that: “(3) The chemical manufacturer, importer or employer evaluating chemicals **shall treat the following sources as establishing that the chemicals listed in them are hazardous:**

Chemical Hazards Cont.

- (i) 29 CFR part 1910, subpart Z, Toxic and Hazardous Substances, Occupational Safety and Health Administration (OSHA); or,
- (ii) Threshold Limit Values for Chemical Substances and Physical Agents in the Work Environment, American Conference of Governmental Industrial Hygienists (ACGIH) (latest edition). The chemical manufacturer, importer, or employer is still responsible for evaluating the hazards associated with the chemicals in these source lists in accordance with the requirements of this standard.

OSHA Carcinogens:

- (4) Chemical manufacturers, importers and employers evaluating chemicals shall treat the following sources as establishing that a chemical is a carcinogen or potential carcinogen for hazard communication purposes:
 - (i) National Toxicology Program (NTP), Annual Report on Carcinogens (latest edition);
 - (ii) International Agency for Research on Cancer (IARC) Monographs (latest editions); or
 - (iii) 29 CFR part 1910, subpart Z, Toxic and Hazardous Substances, Occupational Safety and Health Administration.”

New Proposed Regulatory Language

- (a) Pursuant to Section 25249.8(a), of the Act, a substance 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.

- (b) A substance is identified by reference in Labor Code Section 6382(b)(1) for purposes of subsection (a) and shall be included on the list of chemicals known to cause cancer if the International Agency for Research on Cancer (IARC) has evaluated the carcinogenicity of the substance, and published a document in its series “IARC Monographs on the Evaluation of Carcinogenic Risks to Humans” identifying the substance as a human carcinogen (Group 1) or an animal carcinogen, and classified in either Group 1, 2A, or 2B. If a substance has been evaluated in multiple IARC Monographs, the classification in the most recent Monograph evaluating the substance will be used for this purpose.

- (c) A substance is identified by reference in Labor Code Section 6382(d) for purposes of subsection (a) and shall be included on the list of chemicals known to the state to cause cancer or reproductive toxicity as follows:
 - (1) Substances listed in 29 Code of Federal Regulations (CFR) part 1910.1200, subpart Z, Toxic and Hazardous Substances, Occupational Safety and Health Administration (OSHA) shall be included on the list if they are regulated by OSHA as carcinogens under the Federal Hazard Communication Standard.

- (2) Substances listed in 29 CFR part 1910.1200, subpart Z, Toxic and Hazardous Substances, Occupational Safety and Health Administration (OSHA) shall be included on the list if they are identified by OSHA as causing reproductive toxicity or developmental toxicity using any words or phrases intended to communicate a risk of reproductive harm, a risk of birth defects, or other harm to the developing conceptus.

- (3) Substances for which a Threshold Limit Value (TLV) for Chemical Substances and Physical Agents in the Work Environment has been established by the American Conference of Governmental Industrial Hygienists (ACGIH) (latest edition) shall be included on the list if a basis for the TLV is in whole or in part a risk of reproductive harm, a risk of birth defects, or other harm to the developing conceptus.

- (4) Substances identified in the latest edition of the National Toxicology Program Report on Carcinogens as known to be human carcinogens or reasonably anticipated to be human carcinogens shall be included on the list.

- (5) Substances identified by the International Agency for Research on Cancer (IARC) in its series “IARC Monographs on the Evaluation of Carcinogenic Risks to Humans” as carcinogens (Group 1) or potential carcinogens (Group 2A or 2B) shall be included on the list. If a substance has been evaluated in multiple IARC Monographs, the classification in the most recent Monograph evaluating the substance will be used for this purpose.

- d) Any person may petition the lead agency to consider or reconsider listing a substance pursuant to this section. The petition shall identify the substance in question, the provision of subsection (b) or (c) above that provides the basis for listing or delisting pursuant to this section and Health and Safety Code section 25249.8(a).

Public Comment/Discussion

Wrap-Up

- Next Steps
- For more information:
www.oehha.ca.gov/Prop65.html
- OEHHA Legal Staff
 - cmcummings@oehha.ca.gov, 916-322-0493