

## **Proposition 65: Frequently Asked Questions**

**Q: I recently bought a product that came with a Proposition 65 warning. How do I find out more about the warning and the chemicals in the product?**

A: To request more information regarding the chemical exposures that are the basis of the warning, contact the manufacturer of the product.

Businesses are not required to provide OEHHA with any information regarding their decision to provide a Proposition 65 warning. This decision is made by each business based on its knowledge of the types of chemical exposures it is responsible for causing to individuals.

Because we do not know why a business has chosen to provide a warning, we generally cannot respond to specific questions regarding product safety, the reason a warning is being given, or the listed chemical for which the warning is being given. We also cannot answer questions regarding how long and at what level the chemical exposures have been occurring. The responses to these questions should be requested from the business providing the warning. The Proposition 65 list of chemicals is available at [http://www.oehha.ca.gov/prop65/prop65\\_list/Newlist.html](http://www.oehha.ca.gov/prop65/prop65_list/Newlist.html).

**Q: Is a product safe if it carries a Proposition 65 warning?**

A: The purpose of Proposition 65 is to notify consumers that they are being exposed to chemicals that are known to cause cancer and/or reproductive toxicity. Consumers can decide on their own if they want to purchase or use the product. A Proposition 65 warning does not necessarily mean a product is in violation of any product-safety standards or requirements. For additional information about the warning, contact the product manufacturer.

Other state public health officials and federal government agencies are responsible for regulating product safety. For example, the [California Department of Public Health](#) issues recalls of food products found to be unsafe. The federal [U.S. Food and Drug Administration](#) regulates food, drug, cosmetic and medical device products. Other types of consumer products, including toys, jewelry, personal care products, and other non-food items, are regulated by the federal [Consumer Product Safety Commission](#), which also may issue recalls for products found to be unsafe. Finally, the [California Air Resources Board](#) may ban products that harm the air we breathe.

**Q: My landlord just posted Proposition 65 warning signs at my apartment complex. Why is my landlord posting these warnings?**

A: Tenants should ask their landlords for specific information regarding Proposition 65 warnings at their apartment building. Property owners and managers are not required to notify OEHHA when they provide tenants with a Proposition 65 warning or explain the reasons for the warning. You can find general information on what tenants should know about Proposition 65 by reading our [fact sheet for tenants](#).

**Q. Is toxic mold subject to the requirements of Proposition 65?**

A. No. Toxic mold is not included on the Proposition 65 list of carcinogens or reproductive toxicants because that list only identifies chemicals. The California Department of Public Health is the lead state agency responsible for regulation of mold. The department has published a [fact sheet on toxic mold in homes](#). Other information resources on toxic mold can be found at:

- <http://www.epa.gov/mold/index.html>
- <http://www.insurance.ca.gov/> (type in search word "mold")
- <http://www.cdph.ca.gov/Pages/default.aspx> (type in search word "mold")
- <http://www.cdc.gov/mold/>
- <http://www.osha.gov/dts/shib/shib101003.html>

**Q. Are any businesses exempt from Proposition 65?**

A. Yes. Small businesses with fewer than 10 employees, governmental agencies, and public water systems are exempt from the warning requirement and discharge prohibition of Proposition 65.

**Q: Are government agencies required to disclose illegal discharges of hazardous materials under Proposition 65?**

A: Certain employees of the government are required to disclose illegal and threatened illegal discharges of hazardous waste to the county board of supervisors and the local health officer. Additional information about this disclosure requirement is available at <http://oehha.ca.gov/media/downloads/fact-sheet/p65fact.pdf>. This requirement is separate from the public warning requirements of Proposition 65.

**Q: As a business, how do I know if I need to provide a Proposition 65 warning?**

A: Using your knowledge of your business operations and the chemicals you use, review the [Proposition 65 list](#) to determine whether your operations or products are likely to expose individuals to any listed chemicals. Depending on the level of exposure, you may be required to provide a warning for those exposures.

# OEHHA

## Office of Environmental Health Hazard Assessment

OEHHA adopts [safe harbor levels](#) (levels of exposure that trigger the warning requirement) for many listed chemicals. Businesses that cause exposures greater than the safe harbor level must provide Proposition 65 warnings. OEHHA does not have safe harbor levels for all listed chemicals. If there is no safe harbor level, businesses that expose individuals to that chemical would be required to provide a Proposition 65 warning, unless the business can show that the anticipated exposure level will not pose a significant risk of cancer or reproductive harm. OEHHA has adopted regulations that provide guidance for calculating a level in the absence of a safe harbor level. Regulations are available at [Article 7](#) and [Article 8](#) of Title 27, California Code of Regulations.

Determining anticipated levels of exposure to listed chemicals can be very complex. Although a business has the burden of proving a warning is not required, you are discouraged from providing a warning that is not necessary and instead should consider consulting a qualified professional if you believe an exposure to a listed chemical may not require a Proposition 65 warning.

### **Q. What is the acceptable concentration in my product for chemicals listed under Proposition 65?**

*A. Proposition 65 applies only to exposures to listed chemicals. It does not ban or restrict the use of any given chemical. The concentration of a chemical in a product is only one part of the process to determine whether consumers must be warned about an exposure to a listed chemical.*

As explained above, OEHHA provides businesses with compliance assistance by establishing [safe harbor levels](#) for exposures to listed chemicals. Exposures below those levels do not require a warning.

In general, a business should combine known information about how consumers use their product and how they might be exposed to a listed chemical. For example, a toy might contain small amounts of lead or other listed chemicals in its paint. To determine whether the toy requires a warning, the product's maker would need to consider both the concentration of lead in the paint and scientific information about how a child might handle or mouth the toy and thereby be exposed to the lead.

### **Q: Can you send me the Proposition 65 signs that businesses are required to post or provide me with the information that needs to be included?**

A: OEHHA does not provide Proposition 65 warning signs or labels. Businesses are responsible for providing clear and reasonable warnings for exposures to listed chemicals. OEHHA has adopted regulations that provide guidance for both the methods and content of Proposition 65 warnings for consumer products, occupational and environmental exposures to listed chemicals.<sup>1</sup>

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<sup>1</sup> These regulations can be found in [Title 27, Cal. Code of Regulations, sections 25601 -25605.2](#).

Some signs and labels are commercially available or are provided by trade organizations to their members.

**Q: What are the Proposition 65 requirements for lead in jewelry?**

A: Lead is listed under Proposition 65 as known to the State of California to cause both cancer and reproductive harm. Jewelry is just one of many types of products that may contain lead. Manufacturers and importers of lead-containing jewelry must warn consumers if they will be exposed to lead in jewelry in an amount that exceeds the safe harbor level of 0.5 micrograms per day.

Proposition 65 settlements often result in reformulation of products so that they contain fewer chemicals and other substances known to cause cancer or reproductive harm. For example, a 2006 [settlement](#) of a Proposition 65 lawsuit set standards for lead in jewelry and other products. The companies involved in the settlement agreed to reduce the lead content in jewelry and other products.

Other state and federal laws also regulate lead in jewelry. For example, the Department of Toxic Substances Control enforces the [Lead Containing Jewelry Law](#)<sup>2</sup>, which limits the amount of lead in jewelry and establishes specific testing procedures for that jewelry ([fact sheet](#)).

Nationwide, the federal [Consumer Product Safety Improvement Act](#) enforced by the Consumer Product Safety Commission regulates lead in children's products, including children's jewelry ([fact sheet](#)).

Recently, cadmium, another chemical on the Proposition 65 list, has been used as a substitute for lead in jewelry-making. Exposures to cadmium are subject to the same Proposition 65 warning requirement as lead. Since January 1, 2012, [a separate California law](#)<sup>3</sup> has regulated children's jewelry that contains any component or is made of any material that is more than 0.03% cadmium by weight. The Department of Toxic Substances maintains [a website](#) with information about this law.

**Q: Does Proposition 65 affect the use of phthalates in products?**

A: Phthalates are a group of chemicals that are used in plastics to make them soft and flexible. Phthalates are used in common household products including cosmetics and personal care products, automotive and building products, food and beverage packaging and soft, plastic children's toys.

The following phthalates are listed under Proposition 65 because they are known to cause reproductive harm:

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<sup>2</sup> Cal. Health & Safety Code, §§ 25214.1-25214.4.2

<sup>3</sup> Cal. Health & Safety Code, § 25214.2

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- Di(2-ethylhexyl) phthalate (DEHP)
- Butyl benzyl phthalate (BBP)
- Di-n-butyl phthalate (DBP)
- Di-isodecyl phthalate (DIDP)
- Di-n-hexyl phthalate (DnHP)

Under Proposition 65, significant exposure to any of these phthalates would require a warning before an exposure. “[Safe harbor levels](#)” for DEHP, DBP, DnHP, DIDP, and BBP have been established to assist businesses in determining whether a Proposition 65 warning is required. Proposition 65 does not ban the use of any of these chemicals, but does require warnings to consumers when exposures exceed the safe harbor levels.

Separate from Proposition 65, phthalates in products are also subject to other federal and state laws. For example, both California and U.S. law regulate the following phthalates when used in children’s products:

- Di(2-ethylhexyl) phthalate (DEHP)
- Butyl benzyl phthalate (BBP)
- Di-n-butyl phthalate (DBP)
- Di-isodecyl phthalate (DIDP)
- Di-isononyl phthalate (DINP)
- Di-n-octyl phthalate (DnOP) (Not on Proposition 65 list)

The [California law](#)<sup>4</sup> bans the use of certain phthalates in excess of 0.1 percent in certain child care articles. The federal Consumer Product Safety Improvement Act [Consumer Product Safety Improvement Act](#)<sup>5</sup> also conditionally or fully bans the use of the same named phthalates in children’s products. More information is available through these hyperlinks about implementation of both the [California phthalate law](#) and the [federal phthalate law](#).

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<sup>4</sup> Cal. Health & Safety Code, §§ 108935-108939

<sup>5</sup> 15 U.S.C. §§ 2057(C)