



April 26, 2016

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Re: Clear and Reasonable Warning Regulations

Dear Ms. Vela:

The American Coatings Association (“ACA”) submits these comments to the California Environmental Protection Agency, Office of Environmental Health Hazard Assessment (“OEHHA” or “Agency”) in response to the proposed amendments to Article 6: Clear and Reasonable Warnings regulations under the California Safe Drinking Water and Toxic Enforcement Act of 1986 (“Prop 65”). ACA, once again, appreciates the opportunity to comment on OEHHA’s latest proposal to repeal Article 6 and adopt a new Article 6, Clear and Reasonable Warnings regulations.¹

ACA is a voluntary, nonprofit trade association representing approximately 250 paints, coatings, adhesives, sealants, and caulks manufacturers, raw materials suppliers to the industry, and product distributors. The manufacture, sale, and distribution of paints and coatings are a \$20 billion dollar industry in the United States. ACA’s membership represents over 90% of the total domestic production of paints and coatings in the United States. The state of California currently represents approximately 18% of our domestic coatings market. ACA represents approximately 15 paint and coatings manufacturers with locations in California. The paint and coatings industry, including manufacturers and retailers, employs over 31,000 workers in California.

ACA appreciates OEHHA’s efforts to reform Prop 65 in order to provide businesses with more clarity as to what constitutes clear and reasonable warnings. ACA also appreciates that OEHHA maintained several key provisions from its November 2015 proposal, including the sell-through provision under Section 25600(b) and the abbreviated safe harbor language for consumer product warnings for on-product labels. As ACA has stated before, a sell-through period is critical for our industry and other businesses so that labeled products already in the distribution chain before the two-year effective date that are compliant with the previous iteration of the regulations will remain compliant under the amended regulations. A sell-through period is particularly necessary to prevent products with long shelf lives such as paint from being pulled from shelves and going to waste. Additionally, the abbreviated safe harbor warning content for consumer product exposure warnings provided on the product label is important for our industry, and others who

¹ Proposed Regulation, “Title 27, California Code of Regulations, Adoption of New Article 6,” March 25, 2016, http://oehha.ca.gov/prop65/CRNR_notices/WarningWeb/pdf/Art%206_Modified_Text_Clear_032516.pdf.

primarily provide Prop 65 warnings on the product label. This provision addresses businesses' legitimate concerns about the lack of feasibility of providing a longer Prop 65 warning on the product label due to constrained label space, particularly on small packages. The provision also ensures that, at the same time, the public receives a clear and reasonable warning prior to exposure.

ACA maintains its position that OEHHA does not have the authority to require warnings for products sold online or in catalogs when the product already contains an on-product warning.² However, if OEHHA chooses to require internet and catalog warnings for products in the final regulations, ACA supports the Agency's most recent amendments to the internet and catalog sale safe harbor warning provisions so that there are significantly fewer practical and legal compliance challenges. ACA appreciates that OEHHA has amended Sections 25602(b) and (c) so that if an on-product warning is provided, the warning on the website or the catalog can use the same content as the on-product warning. These amendments mean that a business that provides an on-product Prop 65 warning label will not be required to develop and provide a second, different warning message for the same product if it is sold online or in a catalog by a downstream distributor or retailer. Both consumers and businesses will benefit from these amendments and avoid confusion because they will see the same warning content on the product label as they see for the same product on the Internet or in a catalog. Also, it reduces the burden on manufacturers from being compelled to produce two Prop 65 warnings for the same product.

Additionally, OEHHA has clarified in Section 25600.2(b) that manufacturers have met their responsibility to provide consumer product exposure warnings under Article 6 by either affixing a compliant Prop 65 warning on the product label or providing written notice to the authorized agent of the downstream retail seller. Then, under Section 25600.2(d), the retail seller is responsible for the *placement and maintenance* of warning materials, including warnings for products sold over the Internet, that the retail seller receives from the product label or through written notice. ACA interprets OEHHA's proposal to say that once manufacturers provide a compliant Prop 65 warning on the product label, they would be compliant with their responsibility to provide a clear and reasonable warning, regardless of how it is placed into commerce by downstream retailers.

The coatings industry has a complex distribution chain, where products are sold on the Internet by distributors and retailers three to four links down the supply chain. Given the long shelf life of paint, products can sit in warehouses for long periods of time and then sold at a later time by a third party outside of the manufacturers' control. The reality is that it is extremely difficult or not feasible for manufacturers to guarantee that downstream distributors or retailers are providing

²As stated in ACA's previous comments, ACA believes OEHHA does not have the authority to require warnings for products sold online or in catalogs. The original ballot initiative states in 25249.6. Required Warning Before Exposure To Chemicals Known to Cause Cancer Or Reproductive Toxicity: "No person in the course of doing business shall knowingly and intentionally **expose** any individual to a chemical known to the state to cause cancer or reproductive toxicity without first giving clear and reasonable warning to such individual, except as provided in Section 25249.10" (emphasis added). While OEHHA has the authority to adopt regulations to further the purposes of Prop 65, this authority is not without limits. The purpose of Prop 65 is to provide warnings to individuals prior to exposure, not prior to *purchase*. Therefore, an on-product warning would be legally sufficient even if the consumer make the purchase on the internet or from a catalog, and a second warning online or in the catalog would not be legally required to meet the "clear and reasonable warnings" regulations.

proper Prop 65 warnings prior to sale on the Internet since they may not know if and when their products are sold online.

The only way that manufacturers can ensure that proper Prop 65 warnings are being provided for their products sold online or in a catalog downstream is by providing a compliant Prop 65 warning on the product label. Because OEHHA has amended the proposal to allow the *same* warning content provided on a product label to be used when the product is sold online or in a catalog, then retailers can easily look at the product label's warning content and *place* that identical warning message on their Internet site or catalog if the retailer chooses to sell the product online. OEHHA's amendments ensure that, once a manufacturer has affixed an on-product label, then they have satisfied their responsibilities to provide sufficient notice to the retailer under Article 6. Based on the product's label, retailers will have all the required warning language to then place and maintain the Prop 65 warning on their website or catalog when selling products online and/or in catalogs. These amendments, working in concert, provide significant clarity for businesses that provide Prop 65 warnings on the product label.

However, ACA still has several remaining concerns with OEHHA's proposed regulations, many of which have been outlined in our previous comments and are described in detail below. ACA urges OEHHA to consider the following concerns as they are burdensome for the regulated community and would lead to an increase in uncertainty and Prop 65 litigation:

1. Lack of clear safe harbor for industrial products
 - a. Occupational Exposure Warnings Safe Harbor
 - b. Consumer Product Exposure Warnings Safe Harbor
2. Sell-through period applicability
3. Font and foreign language requirements for consumer product exposure warnings safe harbor
4. Pictogram and color requirements for consumer product exposure warnings safe harbor, and
5. Chemical specific warnings

Given the remaining issues, ACA supports the California Chamber of Commerce's ("Cal Chamber") recommendation that OEHHA make modifications to this proposal and release a revised draft for an additional round of public comments before finalizing the regulations.

1. Lack of Clear Safe Harbor for Industrial Products

a. Occupational Exposure Warnings Safe Harbor

Section 25606 of the proposal prescribes the safe harbor warning for occupational exposures, stating that if a warning fully complies with all information, training and labeling requirements of the federal Hazard Communication Standard or the California Hazard Communication Standard, then the warning is clear and reasonable. As OEHHA explained in a phone call with

ACA on April 5, 2016, “if you are compliant with OSHA, you are compliant with Prop 65.”³ OEHHA has stated a number of times that the safe harbor for occupational exposures is intended to cover both occupational exposure *area* warnings provided by employers to employees as well as industrial *product* exposure warnings provided by a manufacturer to downstream users of chemical products. OEHHA also expressed in the Initial Statement of Reasons for its November 27, 2015, draft that the occupational exposure warnings provisions are meant to incorporate by reference existing federal and state law and regulatory requirements related to warnings for occupational exposures, eliminating any preemption concern.

OEHHA’s intent is significant for ACA members because industrial coatings manufacturers provide Prop 65 warnings either on the product label or on the Safety Data Sheet (SDS). If OEHHA’s intent is included in the final regulatory language, then ACA members who provide HCS warnings on industrial product labels or SDSs will receive much-needed clarity that those warnings are “clear and reasonable,” and the products would not need a separate Prop 65 warning.

However, OEHHA’s intent is currently unclear in the current proposed text given that “occupational exposure warnings” are defined as simply “an exposure to any employee at his or her place of employment.”⁴ This definition does not specify the source of the exposure. It is unclear if the occupational exposure warnings safe harbor can be used for exposures coming from the occupational *area* as well as the *industrial products*. ACA urges OEHHA to clarify its intent in the regulatory text so that products that already have warnings that comply with the warning, information training and labeling requirements of OSHA’s HCS can fall under the occupational exposure warnings safe harbor.

b. Consumer Product Exposures Safe Harbor

Similar to the lack of clarity for occupational exposure warnings safe harbor, OEHHA is unclear in the proposal what products would be able to use the consumer product exposure warnings safe harbor. In this draft, OEHHA for the first time provides a definition of consumer product: “any article, or component part thereof, including food, that is produced, distributed, or sold for the personal use, consumption or enjoyment of a consumer.”⁵ However, OEHHA also defines a “consumer product exposure” as “an exposure that results from a person’s acquisition, purchase, storage, consumption, or any reasonably foreseeable use of a **product**, including consumption of food” (emphasis added).⁶ By saying “product” and not “consumer product” in the definition of “consumer product exposure,” it is unclear whether the consumer product exposure warning safe harbor applies to only OEHHA’s *new* proposed definition of consumer products (which is narrow), or “products” more broadly, so that would include products used in the occupational setting that may not fall under the occupational exposure safe harbor.

³ OEHHA explained that because OSHA establishes extensive warning, training and labeling requirements, products that provide warnings compliant with the requirements of HCS 2012 are deemed “clear and reasonable warnings.” OEHHA in effect intends to “grandfather” Prop 65 into HCS 2012 to avoid federal preemption issues.

⁴ Proposed Regulation, “Title 27, California Code of Regulations, Adoption of New Article 6” March 25, 2016, Section 25600.1(k).

⁵ *Id.* at Section 25600.1(d).

⁶ Proposed Regulation, “Title 27, California Code of Regulations, Adoption of New Article 6,” March 25, 2016, Section 25600.1(e).

ACA urges OEHHA to clarify that the scope of the consumer products exposure warnings safe harbor is for “products,” including *industrial* products that would not fall under the occupational exposures safe harbor, rather than just “consumer products” in order to allow more types of products to take advantage of the safe harbor. Alternatively, OEHHA should eliminate its new proposed definition of consumer products and clarify in the final statement of reasons that the term consumer products used throughout Article 6 also includes industrial products that do not fall under the occupational exposure safe harbor. This would satisfy both a serious gap in the regulations and would promote consistency with OEHHA’s intent for the consumer products exposure safe harbor to be applied broadly. This clarity is important because as the draft stands, there is an entire class of products that could arguably not fall under the occupational exposure warnings safe harbor but are also not “consumer products” under OEHHA’s proposed definition.

Recall that the occupational exposure warnings safe harbor says “a **warning** to an exposed employee about a listed chemical meets the requirements of this article if it fully complies with the warning information, training and labeling requirements of the federal Hazard Communication Standard...” (emphasis added).⁷ There are products that are *fully* compliant with the requirements of the both the federal Hazard Communication Standard and the California Hazard Communication Standard, but do not meet the requirements for classification under the Globally Harmonized System of Classification and Labeling (GHS) revision 3 so do not require a *warning* for a carcinogen or reproductive toxicant. ACA is aware of products that do not require a hazard communication warning, but still need to provide a warning under Prop 65.⁸ Given that some industrial products do not require a hazard communication warning under HCS for a carcinogen or reproductive toxicant, but do have Prop 65 warnings, ACA is unclear if these products would be able to take advantage of the occupational exposure safe harbor because there is no hazard communication “warning” and the occupational exposure safe harbor begins with “a warning to an exposed employee...”. Also, because these products wouldn’t meet OEHHA’s proposed definition of “consumer products,” ACA is unclear if they can take advantage of the consumer product exposure warnings safe harbor.

During ACA’s discussion with OEHHA, OEHHA stated that they intended for consumer product exposures safe harbor to apply broadly and that they understood where, as drafted, there would be confusion. ACA supports the intent from OEHHA to allow the consumer product exposure warning safe harbor to apply to products generally and not the narrow consumer products definition provided. This would be consistent with what OEHHA has stated in the past—that it wants the consumer products exposure safe harbor language to be applicable to products used by consumers but also business-to-business. In in the final statement of reasons of the current clear and reasonable warnings regulations (under “Consumer Product Exposures Defined”), OEHHA responds to a commentator’s recommendation that safe harbor warnings apply to industrial and commercial products as well as consumer goods by stating that the definition of “person” includes not just individuals, but businesses:

⁷ *Id.* at Section 25606.

⁸ Generally speaking, these products have a carcinogen or reproductive toxicant below 0.1% concentration (the concentration cut-off for a mixture) but either: 1) have not performed an exposure assessment under Prop 65, or 2) the exposure is above the NSRL or MADL. To demonstrate this concern ACA has attached a safety data sheet (SDS) in Appendix A.

The term “consumer product exposure” is intended to have broad application. Not only is it intended to apply to exposures to products normally regarded as consumer items...it applies to exposures resulting from any “person’s” acquisition, purchase, storage, consumption or use of a consumer good. The Act defines “person” to include business entities as well as individuals. Accordingly, if a products [*sic*] is intended for acquisition purchase, storage, consumption or other reasonably foreseeable use by a person, then the “safe harbor” of this subsection may be used, though it is not required to be.⁹

Further, having the consumer products exposure warning safe harbor apply to products (including industrial products) would also be consistent with OEHHA’s new Lead Agency website. The proposed safe harbor language includes the web link in the warning content: www.P65Warnings.ca.gov/product (emphasis added). So once again, OEHHA refers to the term “product” generally and not “consumer product.”

In order to clarify OEHHA’s intent for industrial products and provide necessary certainty for businesses, ACA suggests the following changes to Section 25606:

§ 25606 Occupational Exposure **and Industrial Product** Warnings

- (a) A warning **from an industrial product or area warning** to an exposed employee about a listed chemical meets the requirements of this article if it fully complies with all warning information, training and labeling requirements of the federal Hazard Communication Standard (29 Code of Federal Regulations, section 1910.1200), the California Hazard Communication Standard (Title 8, California Code of Regulations section 5194), or, for pesticides, the Pesticides and Worker Safety requirements (Title 3, California Code of Regulations section 6700 et seq.).

- (b) **A product under the scope of the federal Hazard Communication Standard (29 Code of Federal Regulations, section 1910.1200), the California Hazard Communication Standard (Title 8, California Code of Regulations section 5194), or, for pesticides, the Pesticides and Worker Safety requirements (Title 3, California Code of Regulations section 6700 et seq.) that does not meet the requirements for classification and therefore does not provide a hazard communication warning on the label or a safety data sheet (SDS) may comply with this Article by complying with the safe harbor provisions of Section 25602 and 25603.**

For further clarification, ACA recommends the following changes to Section 25600.1:

§ 25600.1 Definitions

- (e) “~~Consumer~~ Product exposure” means an exposure that results from a person’s acquisition, purchase, storage, consumption, or any reasonably foreseeable use of a

⁹ See OEHHA Final Statement of Reasons for Article 6 Clear and Reasonable warnings (FSOR), page 8. http://www.oehha.ca.gov/prop65/law/pdf_zip/12601FSORNov1988.pdf.

consumer product, including consumption of a food, and including industrial products that do not meet the requirements of Section 25606(a) of this Article.

Further, references to “consumer product” should be appropriately amended to “product” throughout Article 6—particularly Section 25603(b)—so that more products can take advantage of this safe harbor. ACA urges OEHHA to adopt this clarification in the regulatory text. In the alternative, ACA encourages OEHHA to eliminate its proposed definition of consumer products since it will only add confusion and clarify in the Final Statement of Reasons the scope of products that the occupational exposure warnings safe harbor can apply to as well as the consumer product exposure warnings safe harbor.

2. Sell-Through Period Applicability

Section 25600(b) states that the sell-through period applies to “consumer products.” In light of OEHHA’s new, narrow definition of “consumer products,” the effectiveness of this sell-through provision has been limited because an entire class of products will not be allowed to utilize the sell-through period. This represents a major departure from the original intent of the sell-through period. When OEHHA added the sell-through period to the draft regulations in November 2015, it intended to apply the provision to products broadly, as evidenced in the Initial Statement of Reasons (ISOR) that only makes reference to “products” and not just consumer products.¹⁰ As discussed, some industrial product manufacturers also use on-products Prop 65 warnings. ACA recommends the following changes to Section 26500(b) in order to have the sell-through period apply consistently and fairly, so that the sell-through period applies to all products and not only consumer products:

§ 25600 General

- (b) This article will become effective two years after the date of adoption. A person may provide a warning that complies with this article prior to its two-year effective date; such warning will be deemed to be clear and reasonable. A warning for a ~~consumer~~ product manufactured prior to the effective date of this article is deemed to be clear and reasonable if it complies with the September 2008 revision of this article.

¹⁰ “This provision allows for a ‘sell through’ of **products** that may use the old warning language, and allows businesses time to replace existing signage or implement new technology....In order to avoid the difficulties involved for manufacturers and retailers to locate all **products** bearing the old warnings, the proposed regulation allows the old safe harbor to remain and be considered compliant if the **product** was manufactured prior to the effective date of the new regulation. Specifically, during the earlier phases of the development of this regulation, many stakeholders expressed concern over anticipated logistical and economic costs associated with changing the warnings on **products** already produced and distributed to the marketplace; this was of particular concern to businesses dealing in durable goods with compliant warnings and a long shelf-life. In order to address these concerns and mitigate potential cost impact on businesses, subsection (b) provides that a warning provided on **products** manufactured prior to the effective date of the revised Article 6 is deemed to be clear and reasonable if it complies with the September 2008 version of Article 6.” Initial Statement of Reasons, “Title 27, California Code of Regulations, Adoption of New Article 6,” November 27, 2015, at page 11.

3. Font Size and Foreign Language Requirement for Consumer Product Exposure Warnings Safe Harbor

Section 25602(a)(4) states that on-product warnings be in a type size no smaller than the largest type size used for other consumer information on the product, and in no case smaller than 6-point type. OEHHA also requires that products that include consumer information on the label, labeling or signs in a foreign language also provide the Prop 65 warning in the same foreign language. OEHHA must take a holistic view of the new proposal's impacts on the limited space on labels, particularly if they want to encourage the use of on-product warnings for Prop 65. The proposed new font requirements in addition to the new foreign language requirement would create significant challenges for manufacturers that are already struggling to fit all required components on a product warning label. It is important to ACA members that OEHHA provide the necessary flexibility, both in content and type size, to manufacturers who warn on product labels so that the new requirements are technically feasible, particularly for small packages.

With regard to font size, while ACA appreciates OEHHA's attempt to allow for more flexibility in this proposal, the current language will only increase confusion given the vague parameters of having to be no smaller than the "largest type size used for other consumer information." ACA recommends that OEHHA should require that the font size be no smaller than the font being used for the precautionary statements, rather than consumer information, provided on the warning since that may not work for certain products. In the alternative, for simplicity, if OEHHA plans to require a specific font size, ACA recommends that OEHHA just require that the font size be no smaller than 6 point font rather than referencing other consumer information at all.

ACA also encourages the Agency to review how its new foreign language requirement in Section 25602(d)¹¹ will burden manufacturers by requiring more information in a finite section of product labels. While ACA understands OEHHA's interest in accommodating to non-English speakers, OEHHA also acknowledges manufacturers' concerns about providing warnings that will not fit on or will crowd labels, which are already being pushed to their limits. This was OEHHA's justification for creating a shorter safe harbor warning for on-product warnings.¹²

In addition to space considerations, the foreign language requirement will likely cause confusion for consumers who do not purchase the product in the United States and who are not affected by Prop 65. Oftentimes, manufacturers include a foreign language on a label because the product is being sent to a foreign country. If the final regulation retains the foreign language requirement, then these foreign consumers will see Prop 65 warnings in their language and not understand what they mean since Prop 65 does not exist in that country.

Furthermore, OEHHA's new foreign language requirement creates a new risk for businesses being sued due to, arguably, not properly translating warnings in foreign languages in a way that is "clear and reasonable." This new foreign language requirement would undoubtedly open the door to new Prop 65 lawsuits based on the *translation* of Prop 65 warnings into foreign

¹¹ "Proposed Regulation, "Title 27, California Code of Regulations, Article 6, Clear and Reasonable Warnings, Adoption of New Article 6, March 25, 2016, Section 25602(d).

¹² Initial Statement of Reasons, "Title 27, California Code of Regulations, Adoption of New Article 6," November 27, 2015, at page 31.

languages. Unless OEHHA creates safe harbor warning content for all possible languages that can be on a Prop 65 warning, businesses face more uncertainty of what translations are “clear and reasonable warnings.”

For example, from doing the simple exercise of typing in a hypothetical Prop 65 warning into three Spanish translation websites, ACA found three different results:

English: This product can expose you to chemicals such as Acrylamide which is known to the State of California to cause cancer. For more information go to www.P65warnings.ca.gov/product.

Spanish (from Google Translate): Este producto puede quedar expuesto a sustancias químicas tales como la acrilamida , que se conocen en el estado de California como causante de cáncer. Para obtener más información, vaya a www.P65warnings.ca.gov/product.

Spanish (from Bing Translate): Este producto puede exponerte a sustancias químicas como la acrilamida que se conoce en el estado de California como causantes de cáncer. Para más información ir a www.P65warnings.ca.gov/product.

Spanish (from Free Translation.com): Este producto puede exponerlo a sustancias químicas como la acrilamida, que es conocido en el estado de California como causantes de cáncer. Para obtener más información vaya a www.P65warnings.ca.gov/product.

As demonstrated, the translations for the same English warning content are not identical, so there is no certainty for businesses as to which translation of the Prop 65 warning is “clear and reasonable.” This makes businesses incredibly vulnerable to Prop 65 private enforcement suits and lessens the benefit of having a safe harbor.

ACA urges OEHHA to not apply its foreign language requirement to Prop 65 warnings, particularly on-product warnings or small packages. OEHHA can satisfy its interest in educating the public about warnings by supplying translations of warnings on its website, which consumers will be directed to, in lieu of requiring businesses to provide them whenever another language is present on a label. If OEHHA adopts the foreign language requirement in a final regulation, at the minimum, ACA encourages OEHHA to adopt the language recommendations of the Cal Chamber, and only require one Prop 65 pictogram per warning if both English and additional languages are required. ACA would like OEHHA to clarify that if the warning is being provided in multiple languages, that does not mean multiple pictograms are also required accompanying each foreign language Prop 65 warning.

During ACA’s April 5, 2016, discussion with OEHHA, OEHHA stated that if the English and foreign language warnings were provided close to each other, other one pictogram would be required. In contrast, OEHHA stated if the English and foreign language warnings are on opposing sides of the label, two pictograms would be required. Again, businesses need certainty with regard to the proper placement of pictograms on their products, so OEHHA must make this clear in the Final Statement of Reasons or in the regulatory text of the final regulation.

4. Pictogram and Color Requirements for Consumer Product Exposure Warnings Safe Harbor

ACA would like to reiterate its previous comments regarding the use of the American National Standards Institute (ANSI) symbol. The ANSI symbol is intended to provide warnings for immediate hazards rather than chronic hazards such as reproductive toxicity and carcinogenicity. OEHHA asserts that the UC Davis Study participants interpreted the symbol to mean “warning,” and that the ANSI symbol is in “widespread use by businesses in the U.S. and internationally for general warnings.” However, ACA believes the requirement that the ANSI symbol be included in Prop 65 warnings could cause confusion to consumers since it is commonly used in other contexts unrelated to Prop 65. As recommended in the Cal Chamber’s comments, if OEHHA intends to include a pictogram at all in a warning requirement, ACA supports the creation of a Prop 65-specific pictogram that would be in black and white color.

With regard to the color requirement, while ACA appreciates OEHHA allowing businesses to use black and white, the proposal only allows for this flexibility if the sign, label or labeling for the product is not printed using the color yellow.¹³ ACA continues to urge the Agency to eliminate the mandate that the symbol be in yellow color. This is for practical purposes because, as is the case with many ACA members, businesses often have pre-printed labels that are shipped to facilities. Product labels are typically pre-printed on a contractual basis, by a 3rd party, in large quantities to reduce the cost per label. Traditionally, the branding on the front of the label is colorful for marketing purposes. On pre-printed labels, there is an area left blank for the product’s specific hazard communication information, including Prop 65 warnings. Then, at the manufacturing facility, the hazard communication information and Prop 65 warning is printed using one tone (black) or two tone (red and black) printers.

Many of ACA members’ products are subject to HCS 2012. ACA members have updated their one-tone printers and invested in two-tone printers that can only print red and black to accommodate the new requirements for the red border for the GHS pictograms. These two-tone printers would be used to print all of the hazard communication information including the Prop 65 warning and cannot accommodate the yellow pictogram. The remaining section of products, subject to the Federal Hazardous Substances Act (FHSA) would have the hazard communication information printed solely in black, using a one tone printer, which again cannot accommodate the yellow pictogram.

In practice, OEHHA’s proposed color requirement will pose significant costs and burdens for ACA members and other companies that use pre-printed labels. Also, as previously discussed, it is still unclear if industrial products with compliant HCS 2012 or Cal OSHA HCS warnings would fall under the occupational exposure warning safe harbor (which would mean no additional Prop 65 warning or yellow pictogram would be required). As currently drafted, the regulations require any product with yellow on the label, even if it was pre-printed by a 3rd party, to have a yellow P65 pictogram. However, this requirement cannot be met without manufacturers purchasing new printers that can print red, black *and* yellow as the hazard

¹³ Proposed Regulation, “Title 27, California Code of Regulations, Adoption of New Article 6,” March 25, 2016, Section 25603(a)(1).

communication information and P65 warnings are printed at the manufacturing facility as the product is produced. This would essentially make printers that were specially purchased for the transition to HCS 2012 or Cal OSHA HCS obsolete in less than 2 years.

ACA requests that OEHHA simply allow manufacturers to print the pictogram in black and white option. This is a practical improvement that would not deter from providing a clear and reasonable warning, and it could potentially save companies thousands of dollars. Using a black and white pictogram would also not go against OEHHA's goal to provide meaningful warnings to consumers because, according to OEHHA's UC Davis Study, the study tested participants' reaction to the proposed warning symbol in both yellow and in black and white. OEHHA states that people interpreted the ANSI symbol to mean "warning" and few expressed confusion.¹⁴ Since OEHHA does not indicate that the study participants expressed a preference for yellow, nor were they more confused by the symbols that were in black and white versus in yellow, that the yellow color is not a necessary component that consumers need to understand the warning, and therefore should not be a requirement in the safe harbor provisions. By taking the yellow requirement out of the safe harbor provisions for consumer product exposure warnings, companies can still elect to use yellow if they choose, but companies that do not for practical and cost purposes would not face the risk of being sued for failure to provide a clear and reasonable warning.

5. Chemical Specific Warnings

ACA is aware the OEHHA strongly supports the inclusion of its chemical specific warning requirements under Section 25601(c). However, ACA reiterates its objection to listing specific chemicals in the text of the warning. ACA has argued in its previous public comments and continues to argue that OEHHA's proposed chemical-specific warning approach—whether it is the formerly proposed list of 12 chemicals, or the current proposal in which companies must select chemicals to put on Prop 65 warnings—will go against the goals of Prop 65 reform. The purposes of Prop 65 reform were to reduce the flood of frivolous litigation from private parties under the statute, provide more certainty to businesses regulated under Prop 65, and to provide more meaningful warnings to the public. This proposal will go against all three of these goals.

Requiring companies to choose one or more chemicals to include on a warning will only confuse consumers given that there are no criteria companies are supposed to follow in selecting what chemical(s) to list on a warning, and will create a potentially misleading or unfair market advantages if only certain chemicals are warned about and others are not. While OEHHA states that a majority of the participants in its UC Davis Study thought that chemical specific warnings were more helpful, the warnings will not be helpful to consumers if different companies choose different chemicals to include on a warning for the same product.

Also, not every chemical that a company chooses to include on a warning will be understood by consumers, and listing chemical names on a warning will not provide a meaningful warning because the consumer still would not know anything else about the chemical or its use in the product. Also, consumers will be led to believe that because certain chemicals are on a product

¹⁴ Initial Statement of Reasons, "Title 27, California Code of Regulations, Adoption of New Article 6," November 27, 2016, at page 28.

warning, that they are predominant or present at a higher level than other chemicals in the, or that they present a higher risk of exposure or harm than other chemicals in the product. All of these consequences will confuse or mislead consumers, counter to OEHHA's intent.

Further, the proposal says that chemicals that are selected to be on a warning must be a chemical "for which the person has determined a warning is required."¹⁵ This language—while changed from the previous language "at a level requiring a warning"—still puts the onus of the company or "person" that chose the chemical to be listed on the warning to incur the burden of having to test the chemical(s) or do an exposure assessment to affirmatively demonstrate that they in fact determined that a warning is required. It was never the intent of Prop 65 to require that businesses conduct testing, and yet this proposed new requirement would effectively require businesses to do so to make sure they are compliant with the law. Also, under current Prop 65 law, the defendant is only responsible for demonstrating that *no warning* is required, so this amendment from OEHHA would change the dynamic so that defendants would also have to demonstrate that a warning is required. It would be a departure from current practice and open businesses up to more potential private enforcement suits if they now have to demonstrate that a warning is required. The potential legal liability this amendment would impose on businesses goes outside OEHHA's authority and trigger more Prop 65 litigation.

Overall, chemical specific warnings will be contradictory to OEHHA's goal of providing certainty for businesses regulated under Prop 65 and will not reduce bounty hunter lawsuits. ACA reinforces its previous position and urges OEHHA to abandon chemical specific warning requirements altogether; in the alternative, ACA supports the language recommendations of the Cal Chamber to make the chemical specific warnings less burdensome and ambiguous.

ACA also urges OEHHA to abandon the language "for which the person has determined a warning is required" in Section 25601(c). In the alternative, ACA supports the recommendations of the Cal Chamber to replace this language with "for which the warning is being provided." This alternative language would be consistent with other Prop 65 regulations that reference "for which a warning is being provided" (such as the Lead Agency Website regulation) and alleviate significant legal concerns for businesses.

¹⁵ Proposed Regulation, "Title 27, California Code of Regulations, Adoption of New Article 6," March 25, 2016, Section 25601(c).

CONCLUSION

ACA remains hopeful that with continued collaboration between OEHHA and all interested stakeholders, Prop 65 reform will accomplish the goals of the Governor to alleviate the large number of frivolous lawsuits, while continuing to protect and inform the people of the state of California. For additional information or questions, please contact Javaneh Nekoomaram at (202) 719-3715 or at jnekoomaram@paint.org or Stephen Wieroniey at (202) 719-3687 or at swieroniey@paint.org.

Respectfully Submitted,



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Appendix A: SDSs Demonstrating Industrial Products That Provide P65 Warnings And Are Not Classified For Carcinogenicity or Reproductive Toxicity According to HCS 2012 / GHS Revision 3.

Example 1: There is no classification for CMR hazards in Sections 2. However section 15 carries a Prop 65 statement. The Prop 65 statement is driven by the ethylbenzene and methyl isobutyl ketone.

Example 1

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1. IDENTIFICATION OF THE SUBSTANCE/MIXTURE AND OF THE COMPANY/UNDERTAKING

Product name

Product code

Formula date 2008-09-25

Recommended use

Responsible party

Telephone

2. HAZARDS IDENTIFICATION

GHS-Classification

Flammable liquids, Category 2 ; Serious eye damage/eye irritation, Category 2A ; Skin sensitisation, Category 1 ; Target Organ Systemic Toxicant - Single exposure, Category 3

Endpoints which are "not classified", "cannot classified" and "not applicable" are not shown.

GHS-Labeling

Hazard symbols:



Signal word: Danger

Hazard statements: Highly flammable liquid and vapour. May cause an allergic skin reaction. Causes serious eye irritation. May cause respiratory irritation. May cause drowsiness or dizziness.

Precautionary statements: Keep away from heat/sparks/open flames/hot surfaces. - No smoking. Ground/bond container and receiving equipment. Use explosion-proof electrical/ventilating/lighting equipment. Use only non-sparking tools. Take precautionary measures against static discharge. Avoid breathing dust/ vapours/ spray. Use only outdoors or in a well-ventilated area. Contaminated work clothing should not be allowed out of the workplace. Wear protective gloves/protective clothing/eye protection/face protection. IF ON SKIN: Wash with plenty of soap and water. IF ON SKIN (or hair): Remove/ Take off immediately all contaminated clothing. Rinse skin with water/ shower. IF INHALED: Remove person to fresh air and keep comfortable for breathing. IF IN EYES: Rinse cautiously with water for several minutes. Remove contact lenses, if present and easy to do. Continue rinsing. IF exposed or if you feel unwell: Call a POISON CENTER or doctor/ physician. Specific treatment (see supplemental first aid instructions on this label). If skin irritation or rash occurs: Get medical advice/ attention. If eye irritation persists: Get medical advice/ attention. Wash contaminated clothing before reuse. Store in a well-ventilated place. Keep container tightly closed. Store locked up. Dispose of contents/container in accordance with local regulations.

Other hazards which do not result in classification

Intentional misuse by deliberately concentrating and inhaling the contents may be harmful or fatal.

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The following percentage of the mixture consists of ingredient(s) with unknown acute toxicity:
0 %

3. COMPOSITION/INFORMATION ON INGREDIENTS

Mixture of synthetic resins and solvents

Components

CAS-No.	Chemical Name	Concentration
100-41-4	Ethylbenzene	0.7%
108-10-1	Methyl isobutyl ketone	5.5%
1330-20-7	Xylene	3%
28182-81-2	Aliphatic polyisocyanate resin	48 - 59%
79-20-9	Methyl acetate	26 - 37%
98-56-6	4-chlorobenzotrifluoride	4 - 15%

Any concentration shown as a range is to protect confidentiality or is due to batch variation.
Non-regulated ingredients 0.1 - 1.0%
OSHA Hazardous: Yes

4. FIRST AID MEASURES

Eye contact: Remove contact lenses. Irrigate copiously with clean, fresh water for at least 15 minutes, holding the eyelids apart. Seek medical advice.

Skin contact: Do NOT use solvents or thinners. Take off all contaminated clothing immediately. Wash skin thoroughly with soap and water or use recognized skin cleanser. If skin irritation persists, call a physician.

Inhalation: Avoid inhalation of vapour or mist. Move to fresh air in case of accidental inhalation of vapours. If breathing is irregular or stopped, administer artificial respiration. If unconscious place in recovery position and seek medical advice. If symptoms persist, call a physician.

Ingestion: If swallowed, seek medical advice immediately and show this safety data sheet (SDS) or product label. Do NOT induce vomiting. Keep at rest.

Most Important Symptoms/effects, acute and delayed

Inhalation: May cause nose and throat irritation. May cause nervous system depression characterized by the following progressive steps: headache, dizziness, nausea, staggering gait, confusion, unconsciousness. Reports have associated repeated and prolonged overexposure to solvents with permanent brain and nervous system damage. Exposure to isocyanates may cause respiratory sensitization. This effect may be permanent. Symptoms include an asthma-like reaction with shortness of breath, wheezing, cough or permanent lung sensitization. This effect may be delayed for several hours after exposure. Repeated overexposure to isocyanates may cause a decrease in lung function, which may be permanent. Individuals with lung or breathing problems or prior reactions to isocyanates must not be exposed to vapors or spray mist of this product.

Ingestion: May result in gastrointestinal distress.

Skin or eye contact: May cause irritation or burning of the eyes. Repeated or prolonged liquid contact may cause skin irritation with discomfort and dermatitis. Skin contact may cause skin sensitization.

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Indication of Immediate medical attention and special treatment needed if necessary: No data available on the product. See section 3 and 11 for hazardous ingredients found in the product.

5. FIREFIGHTING MEASURES

Suitable extinguishing media: Universal aqueous film-forming foam, Carbon dioxide (CO₂), Dry chemical

Extinguishing media which shall not be used for safety reasons: High volume water jet

Hazardous combustion products: CO, CO₂, smoke, and oxides of any heavy metals that are reported in "Composition, Information on Ingredients" section.

Fire and Explosion Hazards: Flammable liquid. Vapor/air mixture will burn when an ignition source is present.

Special Protective Equipment and Fire Fighting Procedures: Full protective flameproof clothing should be worn as appropriate. Wear self contained breathing apparatus for fire fighting if necessary. In the event of fire, cool tanks with water spray. Do not allow run-off from fire fighting to enter public sewer systems or public waterways.

6. ACCIDENTAL RELEASE MEASURES

Procedures for cleaning up spills or leaks: Ventilate area. Remove sources of ignition. Do not breathe vapors. Do not get in eyes or on skin. Wear a positive-pressure, supplied-air respirator (NIOSH approved TC-19C), eye protection, gloves and protective clothing. Pour liquid decontamination solution over the spill and allow to sit at least 10 minutes. Typical decontamination solutions for isocyanate containing materials are: 20% Surfactant (Tergitol TM 10) and 80% Water OR 0-10% Ammonia, 2-5% Detergent and Water (balance) Confine and remove with inert absorbent. Pressure can be generated. Do not seal waste containers for 48 hours to allow CO₂ to vent. After 48 hours, material may be sealed and disposed of properly.

Environmental precautions: Do not let product enter drains. Notify the respective authorities in accordance with local law in the case of contamination of rivers, lakes or waste water systems.

7. HANDLING AND STORAGE

Precautions for safe handling: Observe label precautions. Keep away from heat, sparks, flame, static discharge and other sources of ignition. VAPORS MAY CAUSE FLASH FIRE. Close container after each use. Ground containers when pouring. Do not transfer contents to bottles or unlabeled containers. Wash thoroughly after handling and before eating or smoking. Do not store above 49 °C (120 °F). If material is a coating: do not sand, flame cut, braze or weld dry coating without a NIOSH approved air purifying respirator with particulate filters or appropriate ventilation, and gloves. Combustible dust clouds may be created where operations produce fine material (dust). Avoid formation of significant deposits of material as they may become airborne and form combustible dust clouds. Build up of fine material should be cleaned using gentle sweeping or vacuuming in accordance with best practices. Cleaning methods (e.g. compressed air) which can generate potentially combustible dust clouds should not be used. During baking at temperatures above 400°C, small amounts of hydrogen fluoride can be evolved; these amounts increase as temperatures increase. Hydrogen fluoride vapours are very toxic and cause skin and eye irritation. Above 430°C an explosive reaction may occur if finely divided fluorocarbon comes into contact with metal powder (aluminium or magnesium). Operations such as grinding, buffing or grit blasting may generate such mixtures. Avoid any dust buildup with fluorocarbons and metal mixtures.

Advice on protection against fire and explosion: Solvent vapours are heavier than air and may spread along floors. Vapors may form explosive mixtures with air and will burn when an ignition source is present. Always keep in containers of same material as the original one. Never use pressure to empty container: container is not a pressure vessel. The accumulation of contaminated rags may result in spontaneous combustion. Good housekeeping standards and regular safe removal of waste materials will minimize the risks of spontaneous combustion and other fire hazards.

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Storage

Requirements for storage areas and containers: Observe label precautions. Store in a dry, well ventilated place away from sources of heat, ignition and direct sunlight. No smoking. Prevent unauthorized access. Containers which are opened must be carefully resealed and kept upright to prevent leakage.

Advice on common storage: Store separately from oxidizing agents, strongly alkaline and strongly acidic materials, amines, alcohols and water. Precautions should be taken to avoid exposure to atmospheric humidity or water. Evolution of CO₂ in closed containers causes overpressure and produces a risk of bursting.

Additional information on storage conditions: Precautions should be taken to avoid exposure to atmospheric humidity or water. Humid air and/or water will produce carbon dioxide which will pressurize the container. Open drum carefully as content may be under pressure.

OSHA/NFPA Storage Classification: IB

8. EXPOSURE CONTROLS/PERSONAL PROTECTION

Engineering controls and work practices: Provide adequate ventilation.

National occupational exposure limits

CAS-No.	Chemical Name	Source	Time	Type	Value	Note
79-20-9	Methyl acetate	ACGIH	15 min	STEL	250 ppm	
		ACGIH	8 hr	TWA	200 ppm	
		OSHA	8 hr	TWA	200 ppm	
108-10-1	Methyl isobutyl ketone	ACGIH	15 min	STEL	75 ppm	
		ACGIH	8 hr	TWA	20 ppm	
		OSHA	8 hr	TWA	100 ppm	
1330-20-7	Xylene	ACGIH	15 min	STEL	150 ppm	
		ACGIH	8 hr	TWA	100 ppm	
		OSHA	8 hr	TWA	100 ppm	
100-41-4	Ethylbenzene	ACGIH	8 hr	TWA	20 ppm	
		OSHA	8 hr	TWA	100 ppm	
-	-	-	-	-	-	-
STEL	Short term exposure limit.					
TWA	Time-weighted average.					

Protective equipment: Personal protective equipment should be worn to prevent contact with eyes, skin or clothing.

Respiratory protection:

Eye protection: Desirable in all industrial situations. Goggles are preferred to prevent eye irritation. If safety glasses are substituted, include splash guard or side shields.

Skin and body protection: Neoprene gloves and coveralls are recommended.

Hygiene measures: Wash skin thoroughly with soap and water or use recognized skin cleanser. Do NOT use solvents or thinners.

Environmental exposure controls: Do not let product enter drains.

For ecological information, refer to Ecological Information Section 12.

9. PHYSICAL AND CHEMICAL PROPERTIES

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Appearance

Form: liquid **Colour:** clear **Odour:** Characteristic Paint Odor

Flash point	19 °F
Lower Explosive Limit	0.9 %
Upper Explosive Limit	16 %
Evaporation rate	Slower than Ether
Vapor pressure of principal solvent	58.9 hPa
Water solubility	appreciable
Vapor density of principal solvent (Air = 1)	2.6
Approx. Boiling Range	55 °C
Approx. Freezing Range	Not applicable.
Gallon Weight (lbs/gal)	8.9
Specific Gravity	1.07
Percent Volatile By Volume	47.09%
Percent Volatile By Weight	42.00%
Percent Solids By Volume	52.91%
Percent Solids By Weight	58.00%
pH (waterborne systems only)	No data available.
Partition coefficient: n-octanol/water	no data available
Ignition temperature	445 °C DIN 51794
Decomposition temperature	Not applicable.
Viscosity (23 °C)	Not applicable. ISO 2431-1993
VOC* less exempt (lbs/gal)	1.2
VOC* as packaged (lbs/gal)	0.8

* VOC less exempt (theoretical) and VOC as packaged (theoretical) are based upon the VOC of the packaged material at the point of manufacture.

10. STABILITY AND REACTIVITY

Stability: Stable

Conditions to avoid: Stable under recommended storage and handling conditions (see section 7).

Materials to avoid: Keep away from oxidising agents and strongly acid or alkaline materials. Amines and alcohols cause exothermic reactions. Mixture reacts slowly with water resulting in evolution of CO₂. Evolution of CO₂ in closed containers causes overpressure and produces a risk of bursting.

Hazardous decomposition products: When exposed to high temperatures may produce hazardous decomposition products such as carbon monoxide and dioxide, smoke, oxides of nitrogen as well as hydrogen cyanide, amines, alcohols and water. In the event of fire Carbon monoxide, fluorinated hydrocarbons, hydrogen fluoride, nitrogen oxides may be formed.

Hazardous Polymerization: Will not occur.

Sensitivity to Static Discharge: Solvent vapors in air may explode if static grounding and bonding is not used during transfer of this product.

Sensitivity to Mechanical Impact: None known.

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11. TOXICOLOGICAL INFORMATION

Information on likely routes of exposure

Inhalation: May cause nose and throat irritation. May cause nervous system depression characterized by the following progressive steps: headache, dizziness, nausea, staggering gait, confusion, unconsciousness. Reports have associated repeated and prolonged overexposure to solvents with permanent brain and nervous system damage. The thermal decomposition vapours of fluorinated polymers may cause polymer fume fever with flu-like symptoms in humans, especially when smoking contaminated tobacco. Exposure to isocyanates may cause respiratory sensitization. This effect may be permanent. Symptoms include an asthma-like reaction with shortness of breath, wheezing, cough or permanent lung sensitization. This effect may be delayed for several hours after exposure. Repeated overexposure to isocyanates may cause a decrease in lung function, which may be permanent. Individuals with lung or breathing problems or prior reactions to isocyanates must not be exposed to vapors or spray mist of this product.

Ingestion: May result in gastrointestinal distress.

Skin or eye contact: May cause irritation or burning of the eyes. Repeated or prolonged liquid contact may cause skin irritation with discomfort and dermatitis.

Delayed and immediate effects and also chronic effects from short and long term exposure:

Acute oral toxicity

not hazardous

Acute dermal toxicity

not hazardous

Acute inhalation toxicity

not hazardous

% of unknown composition: 0 %

Skin corrosion/irritation

Not classified according to GHS criteria

Serious eye damage/eye irritation

Methyl acetate	Category 2A
Methyl isobutyl ketone	Category 2A
4-chlorobenzotrifluoride	Category 2A
Xylene	Category 2A

Respiratory sensitisation

Not classified according to GHS criteria

Skin sensitisation

Aliphatic polyisocyanate resin Category 1

Germ cell mutagenicity

Not classified according to GHS criteria

Carcinogenicity

Not classified according to GHS criteria

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Toxicity for reproduction

Not classified according to GHS criteria

Target Organ Systemic Toxicant - Single exposure

- **Inhalation**

Respiratory system Methyl acetate

Target Organ Systemic Toxicant - Repeated exposure

Not classified according to GHS criteria

Aspiration toxicity

Not classified according to GHS criteria

Numerical measures of toxicity (acute toxicity estimation (ATE), etc.): No information available.

Symptoms related to the physical, chemical and toxicological characteristics:

Based on the properties of the isocyanate components and considering toxicological data on similar products, the following applies: This formulation may cause acute irritation and/or sensitization of the respiratory system leading to an asthmatic condition, wheeziness and a tightness of the chest. Sensitized persons may subsequently show asthmatic symptoms when exposed to atmospheric concentrations well below the OEL. Repeated exposure may lead to permanent respiratory disability. Exposure to component solvents vapours concentration in excess of the stated occupational exposure limit may result in adverse health effect such as mucous membrane and respiratory system irritation and adverse effect on kidney, liver and central nervous system. Symptoms and signs include headache, dizziness, fatigue, muscular weakness, drowsiness and in extreme cases, loss of consciousness. Through skin resorption, solvents can cause some of the effects described here. Repeated or prolonged contact with the preparation may cause removal of natural fat from the skin resulting in non-allergic contact dermatitis and absorption through the skin. The liquid splashed in the eyes may cause irritation and reversible damage. Components of the product may be absorbed into the body through the skin.

Whether the hazardous chemical is listed by NTP, IARC or OSHA:

Methyl isobutyl ketone IARC 2B
Ethylbenzene IARC 2B

12. ECOLOGICAL INFORMATION

There are no data available on the product itself. The product should not be allowed to enter drains or watercourses.

13. DISPOSAL CONSIDERATIONS

Waste Disposal Method: Do not allow material to contaminate ground water systems. Incinerate or otherwise dispose of waste material in accordance with Federal, State, Provincial, and local requirements. Do not incinerate in closed containers.

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14. TRANSPORT INFORMATION

International transport regulations

IMDG (Sea transport)

UN number: 1263
Proper shipping name: PAINT RELATED MATERIAL

Hazard Class: 3
Subsidiary Hazard Class: Not applicable.
Packing group: II
Marine Pollutant: no
EmS: F-E,S-E

ICAO/IATA (Air transport)

UN number: 1263
Proper shipping name: PAINT RELATED MATERIAL

Hazard Class: 3
Subsidiary Hazard Class: Not applicable.
Packing group: II

DOT

UN number: 1263
Proper shipping name: PAINT RELATED MATERIAL

Hazard Class: 3
Subsidiary Hazard Class: Not applicable.
Packing group: II
Marine Pollutant: no

The transport information is for bulk shipments. Exceptions may apply for smaller containers.

Matters needing attention for transportation: Confirm that there is no breakage, corrosion, or leakage from the container before shipping. Be sure to prevent damage to cargo by loading so as to avoid falling, dropping, or collapse. Ship in appropriate containers with denotation of the content in accordance with the relevant statutes and rules.

15. REGULATORY INFORMATION

TSCA Status: In compliance with TSCA Inventory requirements for commercial purposes.

DSL Status: All components of the mixture are listed on the DSL.

Photochemical Reactivity: Photochemically reactive

US. California Safe Drinking Water & Toxic Enforcement Act (Proposition 65): WARNING: This product contains a chemical known to the state of California to cause cancer, birth defects, or other reproductive harm.

Regulatory information:

CAS #	Ingredient	EPCRA					CERCLA RQ(lbs)	CAA HAP
		302	TPQ	RQ	311/312	313		
28182-81-2	Aliphatic polyisocyanate resin	N	NR	NR	A,C,F,N,P,R	N	NR	N
79-20-9	Methyl acetate	N	NR	NR	A,C,F,N,P,R	N	100	N

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CAS #	Ingredient	EPCRA					313	CERCLA RQ(lbs)	CAA HAP
		302	TPQ	RQ	311/312				
108-10-1	Methyl isobutyl ketone	N	NR	NR	A,C,F,N,P,R	Y	5,000	Y	
98-56-6	4-chlorobenzotrifluoride	N	NR	NR	C,F,P	N	NR	N	
1330-20-7	Xylene	N	NR	NR	A,C,F,N,P,R	Y	100	Y	
100-41-4	Ethylbenzene	N	NR	NR	A,C,F	Y	1,000	Y	

16. OTHER INFORMATION

HMIS rating: H: 3 ; F: 3 ; R: 1

Glossary of Terms

ACGIH	American Conference of Governmental Industrial Hygienists.
IARC	International Agency for Research on Cancer.
NTP	National Toxicology Program.
OEL	Occupational Exposure Limit
OSHA	Occupational Safety and Health Administration.
STEL	Short term exposure limit.
TWA	Time-weighted average.
PNOR	Particles not otherwise regulated.
PNOC	Particles not otherwise classified.

EPCRA	Emergency Planning and Community Right-to-know Act (aka Title III, SARA)
302	Extremely hazardous substances
311/312 Categories	F = Fire Hazard A = Acute Hazard R = Reactivity Hazard C = Chronic Hazard P = Pressure Related Hazard
313 Information	Section 313 Supplier Notification - The chemicals listed above with a 'Y' in the 313 column are subject to reporting requirements of Section 313 of the Emergency Planning and Community Right-to-Know act of 1986 and of 40 CFR 372.
CERCLA	Comprehensive Emergency Response, Compensation and Liability Act of 1980.
HAP	Listed as a Clean Air Act Hazardous Air Pollutant.
TPQ	Threshold Planning Quantity.
RQ	Reportable Quantity
NA	not available
NR	not regulated

NOTE: The list (above) of glossary terms may be modified.

Information is accurate and subject to change as new information is received.

The information on this Safety Data Sheet relates only to the specific material designated herein and does not relate to use in combination with any other material or in any process.

SDS Prepared by Regulatory Affairs

Report version

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