

FINAL STATEMENT OF REASONS
AMENDMENT TO
TITLE 27, CALIFORNIA CODE OF REGULATIONS SECTION 25705(b).
SPECIFIC REGULATORY LEVELS POSING
NO SIGNIFICANT RISK

This is the Final Statement of Reasons for the adoption of a specific regulatory level for the chemical 2,4,6-trinitrotoluene. On July 30, 2010, the Office of Environmental Health Hazard Assessment (OEHHA) issued a Notice of Proposed Rulemaking to adopt a no significant risk level (NSRL) for 2,4,6-trinitrotoluene, a chemical listed under Proposition 65¹, that will be adopted into Title 27, California Code of Regulations, section 25705(b). The Initial Statement of Reasons set forth the grounds for the proposed amendment to the regulations.

The Notice of Proposed Rulemaking opened a public comment period that commenced on July 30, 2010, and ended on September 13, 2010. The notice stated that a public hearing would be held only on request. No request for a public hearing was received by OEHHA. No written comments were received by OEHHA.

On July 30, 2010, OEHHA provided the technical support document to the members of the Carcinogen Identification Committee for their review and comment, as allowed by Section 25302(e). The technical support document is part of the initial statement of reasons and sets forth the scientific basis for the regulatory levels proposed. No comments were received from any committee members.

ALTERNATIVES DETERMINATION

In accordance with Government Code, section 11346.5(a)(7), OEHHA has, throughout the adoption process for this regulation, considered available alternatives. OEHHA has not found any alternative more effective, or as effective and less burdensome to affected private persons than the proposed action.

For chemicals known to the state to cause cancer, Proposition 65 exempts discharges to sources of drinking water and exposures of people without provision of a warning if the exposure poses “no significant risk” of cancer (Health and Safety Code section 25249.10(c)). Proposition 65 does not specify numerical levels of exposure that represent no significant risk of cancer.

The purpose of this regulation is to provide a “safe harbor” level for a particular chemical exposure. This regulation establishes the numerical No Significant Risk Level for one

¹ The Safe Drinking Water and Toxic Enforcement Act of 1986, codified at Health and Safety Code section 25249.5 *et seq.*, commonly referred to as Proposition 65.

carcinogen. For exposures at or below this level, a warning regarding cancer is not required and a discharge to sources of drinking water is not prohibited. Thus, adoption of this level will allow persons subject to Proposition 65 to determine whether a given discharge or exposure is subject to the warning requirement or discharge prohibition (Health and Safety Code section 25249.6).

Many businesses subject to Proposition 65 do not have the resources to perform these assessments. Yet each business with ten or more employees needs the ability to determine whether its activities or products are subject to the discharge prohibition or warning requirement. The absence of this regulation would leave businesses that use this chemical without an efficient way of determining if they comply with Proposition 65 without the expenditure of significant resources on their part.

LOCAL MANDATE DETERMINATION

Proposition 65 provides an express exemption from the warning requirement and discharge prohibition for all state and local agencies. Thus, OEHHA has determined this regulatory action will 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. OEHHA has also determined that no nondiscretionary costs or savings to local agencies or school districts will result from this regulatory action.