

**CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT
SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986
(Proposition 65)**

**NOTICE TO INTERESTED PARTIES
December 18, 2020**

**DEVELOPMENTAL TOXICITY ENDPOINT REINSTATED FOR THE LISTING OF
BISPHENOL-A (BPA) AS KNOWN TO THE STATE OF CALIFORNIA TO CAUSE
REPRODUCTIVE TOXICITY**

Effective December 18, 2020, the Office of Environmental Health Hazard Assessment (OEHHA) is adding the developmental endpoint to the existing reproductive toxicity (female endpoint) listing of bisphenol A (BPA) (CAS RN. 80-05-7) on the Proposition 65¹ list of chemicals known to the State to cause cancer or reproductive toxicity. Bisphenol A was added to the Proposition 65 list as known to cause reproductive toxicity for the female reproductive toxicity endpoint, effective May 15, 2015. The listing now includes an additional endpoint, developmental toxicity.

Bisphenol A was originally added to the Proposition 65 list on April 11, 2013 for reproductive toxicity (developmental endpoint). The listing was based on a formal identification by the National Toxicology Program (NTP), an authoritative body, in a final report by the NTP Center for Evaluation of Risks to Human Reproduction, that BPA causes reproductive toxicity (developmental endpoint) at high doses.

The chemical was delisted effective April 19, 2013, based on a trial court injunction prohibiting the listing of BPA for the developmental endpoint pending final resolution of the case - American Chemistry Council [ACC] v Office of Environmental Health Hazard Assessment, et al., Sacramento County case number 34-2013-00140720. That court eventually denied the ACC's challenge to the listing and the ACC appealed. The Court of Appeal kept an injunction in place pending their resolution of the case. On October 19, 2020 the Third District Court of Appeal² entered a judgment affirming the trial court decision and an order dissolving the injunction. The time to seek California Supreme Court review has passed, so the Court of Appeal decision is final. Therefore, OEHHA is reinstating the developmental toxicity endpoint for the listing of BPA as causing reproductive toxicity at this time, on the same basis as the original listing for that endpoint <https://oehha.ca.gov/proposition-65/crn/notice-intent-list-bisphenol>.

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

² ACC v OEHHA (3rd District, filed 10/19/2020, modified 11/10/2020) 55 Cal.App.5th 1113

A complete, updated chemical list will be published in an upcoming issue of the California Regulatory Notice Register and is available on the OEHHA website at <https://oehha.ca.gov/proposition-65/proposition-65-list>.

Please contact Carol Monahan Cummings, OEHHA Chief Counsel at (916) 205-0493 or carol.monahan-cummings@oehha.ca.gov if you have questions regarding this notice.