

Proposition 65 Listed Chemicals Affected by Amendments to the Federal Hazard Communication Standard

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Outline

- Proposed change of basis for certain chemicals
- Legal Background
- Next Steps
- Questions?



Change of Basis for Certain Listed Chemicals

- Certain chemicals on the list no longer meet the listing requirements for an administrative listing and have been referred to the DARTIC for review.
- The basis for listing has changed for six other chemicals to the authoritative bodies or formally required listing mechanisms.



Change of Basis for Listing



Authoritative Bodies

- Dichloroacetic acid (changed 11/8/2013 based on U.S. EPA findings)
- Nitrous oxide (changed 11/8/2013 based on NIOSH findings)
- Carbaryl (changed 12/27/13 based on NIOSH findings)



Formally Required (Changed 11/22/13)

- 1,2-Dibromo-3-chloropropane (based on OSHA requirements)
- Ethylene oxide (based on EPA/OSHA requirements)
- Lead (based on OSHA requirements)



Chemicals Before The DARTIC

Today

- n-Butyl glycidyl ether
- Diglycidyl ether
- Phenyl glycidyl ether
- Methyl n-butyl ketone
- Methyl isopropyl ketone
- α -Methyl styrene

For A Future Meeting

- Chloroform
- Hexafluoroacetone
- Phenylphosphine



Chemicals Before the DARTIC

- These chemicals will remain on the list only if, in the judgment of the DARTIC, they have been:

Clearly shown through scientifically valid testing according to generally accepted principles to cause reproductive toxicity.



Legal Background



Background

- The “Labor Code” listing mechanism relies on Labor Code Section 6382(d) to identify chemicals known to cause reproductive toxicity.
- The Labor Code incorporates the federal Hazard Communication Standard (HCS)



Background (continued)

Until March 2012, the HCS specifically referred to the American Conference of Governmental Industrial Hygienists (ACGIH) list of Threshold Limit Values (TLVs) and “Subpart Z” of the federal regulations as definitive sources for identifying chemical hazards.



The March 2012 Change:

Before 2012...

- A legal decision, *California Chamber of Commerce v. Brown* (2011), upheld OEHHA's requirement to use the Labor Code mechanism to add chemicals to the Proposition 65 list.
- OEHHA used ACGIH TLVs and subpart Z to identify chemicals that cause reproductive toxicity.

After 2012...

- OEHHA is still required to use the Labor Code listing mechanism.
- Due to the change in the HCS, the ACGIH's TLVs and Subpart Z are not definitive sources for identifying chemicals for Proposition 65 listings.



Chemicals Listed Before 2012

- Chemicals added by the Labor Code mechanism were reviewed.
- Chemicals that cannot be administratively listed on another basis are being presented to the DARTIC for consideration.
- No need to evaluate the TLVs for these chemicals.
- *De Novo* review of toxicity data.



Next Steps

- Committee decides whether the chemical does or does not meet the criteria for listing, or should be deferred to a later meeting.
- Additional chemicals will be presented at another 2014 meeting



QUESTIONS?

