



Frequently Asked Questions about Proposition 65 and Bisphenol A

What Is Proposition 65?

In 1986, California voters approved the Safe Drinking Water and Toxic Enforcement Act of 1986, better known as Proposition 65. Proposition 65 requires the Governor to publish a [list of chemicals](#) known to cause cancer or birth defects or other reproductive harm. This list, which must be updated at least once a year, has grown to include approximately 775 chemicals since it was first published in 1987.

Proposition 65 requires businesses to notify Californians about the presence of listed chemicals in the products they purchase, in their homes or workplaces, or that are released into the environment. Proposition 65 also prohibits California businesses from knowingly discharging significant amounts of listed chemicals into sources of drinking water.

The Office of Environmental Health Hazard Assessment (OEHHA) administers the Proposition 65 program. OEHHA, which is part of the California Environmental Protection Agency (Cal/EPA), also evaluates all currently available scientific information on substances considered for placement on the Proposition 65 list. More information is available at <http://www.oehha.ca.gov/prop65>.

What types of chemicals are on the Proposition 65 list?

The list contains a wide range of naturally occurring and synthetic chemicals that OEHHA has determined are known to cause cancer or birth defects or other reproductive harm. These chemicals include additives or ingredients used in common household products, food, drugs, dyes, and solvents, among other substances. Listed chemicals may also be used in manufacturing and construction, or they may be byproducts of chemical processes, such as motor vehicle exhaust.

How is a chemical added to the list?

There are four principal ways for a chemical to be added to the Proposition 65 list. A chemical can be listed if either of two independent committees of scientists and health professionals finds that the chemical has been clearly shown to cause cancer or birth defects or other reproductive harm.

Committee Listing -- These two committees -- [the Carcinogen Identification Committee \(CIC\)](#) and the [Developmental and Reproductive Toxicant Identification Committee \(DARTIC\)](#) -- are part of OEHHA's Science Advisory Board. The committee members are appointed by the Governor and are designated as the "State's Qualified Experts" for evaluating chemicals under Proposition 65. When determining whether a chemical should be placed on the list, the

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committees base their decisions on the most current scientific information available. OEHHA staff scientists compile all relevant scientific evidence on various chemicals for the committees to review. The committees also consider comments from the public before making their decisions.

Authoritative Body Listing -- A second way for a chemical to be listed is if an organization designated as an “authoritative body” by the CIC or DARTIC has identified it as causing cancer or birth defects or other reproductive harm. The following organizations have been designated as authoritative bodies: the U.S. Environmental Protection Agency, U.S. Food and Drug Administration (FDA), National Institute for Occupational Safety and Health, National Toxicology Program, and International Agency for Research on Cancer.

Agency Listing -- A third way for a chemical to be listed is if a state or federal government agency requires that it be labeled or identified as causing cancer or birth defects or other reproductive harm. Most chemicals listed in this manner are prescription drugs that are required by the FDA to contain warnings relating to cancer or birth defects or other reproductive harm.

Proposition 65 also requires the listing of chemicals meeting certain scientific criteria and identified in the California Labor Code as causing cancer or birth defects or other reproductive harm. This method was used to establish the initial chemical list following voter approval of Proposition 65 in 1986.

What does Proposition 65 require California businesses to do?

Businesses are required to provide a “clear and reasonable” warning before knowingly and intentionally exposing anyone to a listed chemical. This warning can be given by several means, including labeling a consumer product, posting signs at the workplace, distributing notices at a rental housing complex, or publishing notices in a newspaper. Once a chemical is listed, businesses have 12 months to comply with warning requirements.

Proposition 65 also prohibits companies that do business within California from knowingly discharging listed chemicals into sources of drinking water. Once a chemical is listed, businesses have 20 months to comply with the discharge prohibition.

Businesses with less than 10 employees and government agencies are exempt from Proposition 65’s warning requirements and prohibition on discharges into drinking water sources. Businesses are also exempt from the warning requirement and discharge prohibition if the exposures they cause are so low as to create no significant risk of cancer or birth defects or other reproductive harm. Health risks are explained in more detail below.



What does a warning mean?

If a warning is placed on a product label or posted or distributed at the workplace, a business, or in rental housing, the business issuing the warning is aware or believes that one or more listed chemicals is present. A warning must be given for listed chemicals unless exposure is determined to be sufficiently low to pose no significant risk of cancer or is significantly below levels observed to cause birth defects or other reproductive harm.

For a chemical that causes cancer, the “no significant risk level” is defined as the level of exposure that would result in not more than one excess case of cancer in 100,000 individuals exposed to the chemical over a 70-year lifetime. In other words, a person exposed to the chemical at the “no significant risk level” for 70 years would not have more than a “one in 100,000” chance of developing cancer as a result of that exposure.

For chemicals that are listed as causing birth defects or reproductive harm, the “no observable effect level” is determined by identifying the level of exposure that has been shown to not pose any harm to humans or laboratory animals. Proposition 65 then requires this “no observable effect level” to be divided by 1,000 in order to provide an ample margin of safety. Businesses subject to Proposition 65 are required to provide a warning if they cause exposures to chemicals listed as causing birth defects or reproductive harm that exceed 1/1000th of the “no observable effect level.”

OEHHA develops numerical guidance levels, known as “[safe harbor numbers](#)” for determining whether a warning is necessary or whether discharges of a chemical into drinking water sources are prohibited. A business may choose, however, to provide a warning simply based on its knowledge, or assumption, about the presence of a listed chemical without attempting to evaluate the levels of exposure. The business issuing the warning should be contacted for specific information, such as what chemicals are present, and at what levels, as well as how exposure to them may occur.

What are [safe harbor numbers](#)?

To guide businesses in determining whether a warning is necessary or whether discharges of a chemical into drinking water sources are prohibited, OEHHA has developed safe harbor numbers. A business has “safe harbor” from Proposition 65 warning requirements or discharge prohibitions if exposure to a chemical occurs at or below these levels. These safe harbor numbers consist of no significant risk levels for chemicals listed as causing cancer and maximum allowable dose levels for chemicals listed as causing birth defects or other reproductive harm. OEHHA has established safe harbor numbers for nearly 300 chemicals to date and continues to develop safe harbor numbers for listed chemicals.



Who enforces Proposition 65?

The [California Attorney General's Office](#) enforces Proposition 65. Any district attorney or city attorney (for cities whose population exceeds 750,000) may also enforce Proposition 65. In addition, any individual acting in the public interest may enforce Proposition 65 by filing a lawsuit against a business alleged to be in violation of this law. Lawsuits have been filed by the Attorney General's Office, district attorneys, consumer advocacy groups, and private citizens and law firms. Penalties for violating Proposition 65 by failing to provide notices can be as high as \$2,500 per violation per day.

Is BPA listed on Proposition 65?

No, BPA is not listed on Proposition 65.

Will BPA be added to Proposition 65?

DARTIC recommended at its December 10, 2007, meeting that OEHHA prepare hazard identification materials for eight chemicals, including BPA. The data call-in period for information relevant to the assessment of the evidence of the developmental and reproductive toxicity of BPA ends [April 17, 2008](#). OEHHA will review and consider information received during the data call-in period as it prepares the hazard identification materials. This review period could take many months.

Will there be other opportunities for public comment?

OEHHA typically makes the hazard identification materials available for a 60-day comment period prior to the DARTIC meeting at which the chemical will be considered. According to a [January 11, 2008, notice](#), OEHHA anticipates presenting hazard identification materials for some or all of five chemicals, which include BPA, to the DARTIC at a meeting tentatively planned for **late summer 2008**. OEHHA will organize and index the comments received and forward the information to the DARTIC members prior to the meeting.

Where can I get more information on Proposition 65?

For general information on the Proposition 65 list of chemicals, you may contact OEHHA's Proposition 65 program at (916) 445-6900, or visit <http://www.oehha.ca.gov/prop65.html>. For enforcement information, contact the California Attorney General's Office at (510) 622-2160, or visit <http://caag.state.ca.us/prop65/index.htm>.



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What is NAMPA doing about BPA and Proposition 65?

NAMPA is working closely with its members to ensure that the information on BPA submitted to OEHHA is reliable and accurate, and that OEHHA applies Proposition 65 in a balanced and defensible manner. NAMPA will participate in the rulemaking as appropriate to ensure its member companies' interests are protected, and otherwise work with OEHHA to ensure it discharges its responsibilities fairly and in a scientifically sound way.

Where can I get more information about NAMPA?

The NAMPA website is available at <http://www.metal-pack.org/>. For additional information, contact NAMPA at info@metal-pack.org or (866) 522-0950.