

INFOTRACSM INFO BULLETIN

Winter 2018

REMINDER:

DOT / PHMSA CIVIL PENALTIES HAVE INCREASED

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Final Rule

PUBLISHED: April 19, 2017

SUMMARY:

PHMSA is revising the maximum and minimum civil penalties for a knowing violation of the Federal hazardous material transportation law or a regulation, order, special permit, or approval issued under that law.

The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, which amended the Federal Civil Penalties Inflation Adjustment Act of 1990, required Agencies to update their civil monetary penalties in August 2016 through an interim final rulemaking. PHMSA has elected to do the 2017 update in a final rulemaking. Per this final rule, the maximum civil penalty for a knowing violation is now \$78,376, except for violations that result in death, serious illness, or severe injury to any person or substantial destruction of property, for which the maximum civil penalty is \$182,877. In addition, the minimum civil penalty amount for a violation relating to training is now \$471.

2018 NATIONAL WORKSHOP SCHEDULE

Infotrac is pleased to announce our 2018 National Workshop Schedule. We will be in the following cities this coming year for DOT Hazardous Material Shipper Certification. Please contact Dawn Moline at 352-323-3500 or dawn.moline@infotrac.net for details.

02/13/2018	ATLANTA	GA
03/06/2018	CHICAGO	IL
04/10/2018	CHARLOTTE	NC
06/05/2018	PHILADELPHIA	PA
07/17/2018	DALLAS	TX
07/31/2018	MINNEAPOLIS	MN
08/07/2018	CHICAGO	IL
10/23/2018	LOS ANGELES	CA

A MESSAGE FROM OUR PRESIDENT



As President of the Infotrac Corporation, I would like to wish each and every one of our customers, a Happy Holiday Season and Prosperous New Year!

I only hope that sometime during these past twelve months, our corporation and its dedicated staff have managed to make your regulatory and training problems, emergency response, or SDS management one less problem facing your company.

As always, we will continue working today for your safer tomorrow.

Sincerely Yours,

ANTHONY KOB Sr.
President | INFOTRAC

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INFOTRAC TO OFFER REGULATORY REVIEW OF PREVIOUSLY WRITTEN SDS

The new OSHA Hazard Communication Standard isn't so new anymore! Infotrac has been writing SDS for more than five years now. In those five years, OSHA and the international community have continued to update the regulations and harmonize additional hazard classifications. If your SDS are more than two years, we recommend having each SDS review by one of Infotrac's regulatory specialists to ensure that your SDS is as up to date as possible. By subscribing to our review service, you get the following:

- 1) Regulatory Review based on the most recent updates from the LOLI Database*
- 2) New Date
- 3) Version #
- 4) Section 16 will list the changes made either "Regulatory Review" or "Changes to Sections 2,4,..."

* LOLI (List of Lists) Database. The LOLI (List Of Lists) Database is updated quarterly with over 4400 regulatory lists from around the world, including environmental, health and safety, international, inventories, and reference material necessary for Safety Data Sheet preparation.

Benefits:

- 1) Peace of mind that your products are being accurately represented to your customer and to regulatory officials.
- 2) Your products are an extension of your brand. Newer SDS show your attention to detail and display a forward-thinking industry leading mindset.

If you are interested in learning more about our regulatory review services, please give us a call today!

CALIFORNIA EPA UPDATES PROP 65 REQUIREMENTS

What is Proposition 65?

In 1986, California voters approved Proposition 65, an initiative to address their growing concerns about exposure to toxic chemicals. That initiative is officially known as the Safe Drinking Water and Toxic Enforcement Act of 1986. The law requires California to publish a list of chemicals known to cause cancer or reproductive toxicity, and for businesses with 10 or more employees to provide warnings when they knowingly and intentionally cause significant exposures to listed chemicals.

This list currently includes more than 850 chemicals. Proposition 65 does not ban or restrict the sale of chemicals on the list. The warnings are intended to help Californians make informed decisions about their exposures to these chemicals from the products they use and the places they go.

The Office of Environmental Health Hazard Assessment (OEHHA) administers the Proposition 65 program. What Are the Most Significant Changes to the Proposition 65 Warnings For Consumer Products?

Since the original warning requirements took effect in 1988, most Proposition 65 warnings simply state that a chemical is present that causes cancer or reproductive harm, but they do not identify the chemical or provide specific information about how a person may be exposed or ways to reduce or eliminate exposure to it.

New OEHHA regulations, adopted in August 2016 and that will take full effect in August 2018, change the safe harbor warnings which are deemed to comply with the law in several important ways. For example, the new warnings for consumer products will say the product "can expose you to" a Proposition 65 chemical rather than saying the product "contains" the chemical. They will also include:

- The name of at least one listed chemical that prompted the warning.
- The Internet address for OEHHA's new Proposition 65 warnings website, www.P65Warnings.ca.gov, which includes additional information on the health effects of listed chemicals and ways to reduce or eliminate exposure to them.
- A triangular yellow warning symbol on most warnings.

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What Are Other Highlights of the New Warnings System?

The new warning regulation also:

- Adds new “tailored” warnings that provide more specific information for certain kinds of exposures, products, and places.
- Provides for website warnings for products purchased over the Internet.
- Provides for warnings in languages other than English in some case..
- Clarifies the roles and responsibilities of manufacturers and retailers in providing warnings.

How Do the New Warnings Compare to the Current Warnings?

A typical current Proposition 65 warning states, “WARNING: This product contains a chemical known to the State of California to cause cancer.” A sample new warning would look like this: “ WARNING: This product can expose you to chemicals including arsenic, which is known to the State of California to cause cancer. For more information, go to www.P65Warnings.ca.gov.”

Why are Proposition 65 Warnings Changing?

In 2013, Gov. Edmund G. Brown Jr. proposed reforms to strengthen Proposition 65. The Governor called for changes to “require more useful information to the public on what they are being exposed to and how they can protect themselves.” He added, “This is an effort to improve the law so it can do what it was intended to do – protect Californians from harmful chemicals.”

In 2015, UC Davis researchers interviewed more than 1,500 randomly selected Californians and asked them to compare the new specific warnings to the current generic warnings. The results were dramatic – 77 percent said the new warnings would be more helpful than the current system.

What Are the Goals of the New Warnings?

The new warning system has several main goals. These include:

- Making warnings more meaningful and useful for the public.
- Reducing “over-warning” in which businesses provide unnecessary warnings.
- Giving businesses clearer guidelines on how and where to provide warnings.

When Will the Changes Take Effect?

In August 2016, the Office of Administrative Law approved the new regulations for improved Proposition 65 warnings. Businesses can currently choose whether to provide the old warning or the new warning as part of the regulation’s two-year phase-in period. Beginning August 30, 2018, the old warning system will expire and businesses that want “safe harbor protection” that deems them in compliance with Proposition 65 will use the new warning system.

What is the Purpose of the New Proposition 65 Warnings Website?

In 2016, OEHHA launched a new website, www.P65Warnings.ca.gov, to provide the public with more information on chemicals, products, and locations associated with Proposition 65 warnings. The website is part of the state’s effort to provide Californians with more useful information on chemicals they are being exposed to and ways to protect themselves.

People who read Proposition 65 warnings and want to learn more can go to the website to find additional information about chemicals and best practices for reducing or eliminating exposures. The website contains fact sheets about Proposition 65 chemicals and specific types of exposure, such as from furniture products or enclosed parking facili-

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ties. It also answers frequently asked questions about Proposition 65 and includes a glossary of Proposition 65 terms.

Will Businesses Be Required to Provide the New Warnings?

No. The regulation states that a business is not required to use the new safe harbor warning system to comply with the law. However, using the safe harbor warnings is an effective way for businesses to protect themselves against Proposition 65 enforcement actions. Businesses that use the safe harbor warnings are deemed compliant with the law's requirement for clear and reasonable warnings.

Businesses have the option to provide different warnings if they believe they comply with the law. Additionally, small businesses with fewer than 10 employees are exempt from Proposition 65's warning requirements.

Will Products Manufactured Before August 2018 Need to Use the New Warnings?

No. Products manufactured before August 30, 2018 will not need new warnings if they meet the requirements that were in effect at the time of their production.

Will Special Warnings Approved by Courts in Previous Legal Settlements Remain in Effect?

Yes. The regulation states that OEHHA recognizes court-ordered settlements and judgments that impose specific Proposition 65 warnings.

What Circumstances Will Require Warnings in Languages Other Than English?

When a consumer product sign, label or shelf tag used to provide a warning includes consumer information in a language other than English, the warning must also be provided in that language in addition to English. Facilities that provide signage in non-English languages would also have to provide any required warnings in those languages, in addition to English.

For Internet purchases, warnings can be provided by including a clearly marked hyperlink using the word WARNING on the product display page.

Which Exposures, Products, and Places Have Specific Tailored Warnings?

In addition to the warnings for chemical exposures from consumer products, the new regulation provides specific warnings for exposures from:

- Alcoholic beverages, food and non-alcoholic beverages, prescription drugs, dental care, wood dust, furniture products, diesel engines, vehicles, and recreational vessels.
- Enclosed parking facilities, amusement parks, petroleum products, service stations and vehicle repair facilities, and designated smoking areas

Can Businesses Request Additional Tailored Warnings?

Yes. The regulation allows businesses to request new tailored warnings pursuant to Government Code sections 11340.6 and 11340.7 (Petition for Rulemaking). OEHHA will consider these requests and can amend the regulation to add tailored warnings as appropriate.

What Are the Warning Responsibilities for Manufacturers and Retailers?

The new system clarifies that manufacturers have the primary responsibility for providing Proposition 65 warnings. Manufacturers can choose whether to put warning labels on their products or to provide notices to their distributors, importers or retail outlets that a product may cause an exposure to a listed chemical that requires a warning provide

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warning signs or other warning materials. Manufacturers can also enter written agreements with retailers to modify this allocation of responsibility as long as the consumer receives a clear and reasonable warning before her or she is exposed to a Proposition 65 chemical.

Retailers must confirm that they received the notice and must use the warning signs or other materials provided by the manufacturer.

Are There Other Regulations to Assist Businesses with Warning Requirements?

Yes. In addition to other forms of compliance assistance, OEHHA has regulations that set procedures for requesting advice from the agency including Interpretive Guidelines and Safe Use Determinations.

In some cases, OEHHA may issue an interpretive guideline that clarifies warning requirements with regard to specific facts. Current Interpretive Guidelines apply to consumption of sulfur dioxide in dried fruits, chlorothalonil in tomato products, consumption of methanol from pectin that occurs naturally in fruits and vegetables, and hand-to-mouth transfer of lead through exposure to consumer products and fishing tackle. For more information on Interpretive Guidelines, see <https://oehha.ca.gov/proposition-65/interpretive-guidelines-proposition-65>.

There is also a procedure for requesting a Safe Use Determination. A Safe Use Determination is a written statement issued by OEHHA that interprets whether specific sets of exposures require warnings. For example, in recent years, OEHHA has issued several Safe Use Determinations related to exposures from diisononyl phthalate (DINP) in vinyl flooring and outdoor furniture products. For more information on the Safe Use Determination Process, see <https://oehha.ca.gov/proposition-65/interpretive-guidelines-proposition-65>

Where Can I Find More Information On Proposition 65 Warning Requirements?

Proposition 65 and its regulations are posted at <https://oehha.ca.gov/proposition-65/law/proposition-65-law-and-regulations>.

For a side-by-side comparison of the current and new warning regulations, see <https://oehha.ca.gov/media/downloads/cnr/side-sidearticle6.pdf>

You can also contact the Proposition 65 Implementation Program office: (916) 445-6900 or email <mailto:P65.Questions@oehha.ca.gov>

The logo for INFOTRAC, featuring the word "INFO" in a blue, sans-serif font and "TRAC" in a grey, sans-serif font with a registered trademark symbol (®) to the right.

The Hazmat Solution Company