



## **Certificate of California Proposition 65 Compliance**

**Effective with 12/31/2021 Update (1022 Substances)**

### **California Proposition 65 – AKA the “Safe Drinking Water and Toxic Enforcement Act of 1986”**

#### **Definition and History of Proposition 65**

In 1986, California voters approved an initiative to address their growing concerns about exposure to toxic chemicals. That initiative became the Safe Drinking Water and Toxic Enforcement Act of 1986, better known by its original name of Proposition 65. Proposition 65 requires the State 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 well over 900 chemicals since it was first published in 1987.

Proposition 65 requires businesses to provide warnings to Californians about significant exposures to chemicals that cause cancer, birth defects or other reproductive harm. These chemicals can be in the products that Californians purchase, in their homes or workplaces, or that are released into the environment. By requiring that this information be provided, Proposition 65 enables Californians to make informed decisions about their exposures to these chemicals.

(Reference: <https://oehha.ca.gov/proposition-65/general-info/proposition-65-plain-language>)

Businesses with ten or more employees are responsible for providing a clear and reasonable warning before knowingly or intentionally exposing any person to a chemical listed on the state's database (CA Health & Safety Code § 25249.6), including providing notice to the public about significant amounts of listed chemicals:

- In the products they purchase.
- In their homes or workplaces.
- That are released into the environment.

Proposition 65 applies to:

- Any person in the course of doing business in California.
- Businesses that employ ten or more employees.
- Environments and products that contain listed chemicals.

*It is notable that all government agencies are exempted from complying with Proposition 65.*

#### **Proposition 65 FAQs**

*Is a product safe if it carries a Proposition 65 warning?*

The purpose of Proposition 65 is to notify consumers that they are being exposed to chemicals that are known to **THE STATE OF CALIFORNIA** to cause cancer and/or reproductive toxicity. Consumers can decide on their own if they want to purchase or use the product. A Proposition 65 warning does not necessarily mean a product is in violation of any product-safety standards or requirements. For additional information about the warning, contact the product manufacturer.

Other state public health officials and federal government agencies are responsible for regulating product safety. For example, the California Department of Public Health issues recalls of food products found to be unsafe. The federal U.S. Food and Drug Administration regulates food, drug, cosmetic, and medical device products. Other types of consumer products, including toys, jewelry, personal care products, and other non-food items, are regulated by the federal Consumer Product Safety Commission, which also may issue recalls for products found to be unsafe. Finally, the California Air Resources Board may ban products that harm the air we breathe.



As a business, how do I know if I need to provide a Proposition 65 warning?

Using your knowledge of your business operations and the chemicals you use, review the Proposition 65 list to determine whether your operations or products are likely to expose individuals to any listed chemicals. Depending on the level of exposure, you may be required to provide a warning for those exposures.

OEHHA adopts safe harbor levels (levels of exposure that trigger the warning requirement) for many listed chemicals. Businesses that cause exposures greater than the safe harbor level must provide Proposition 65 warnings. OEHHA does not have safe harbor levels for all listed chemicals. If there is no safe harbor level, businesses that expose individuals to that chemical would be required to provide a Proposition 65 warning, unless the business can show that the anticipated exposure level will not pose a significant risk of cancer or reproductive harm. 4 Regulations are available at Article 7 and Article 8 of Title 27, California Code of Regulations.

Determining anticipated levels of exposure to listed chemicals can be very complex. Although a business has the burden of proving a warning is not required, you are discouraged from providing a warning that is not necessary and instead should consider consulting a qualified professional if you believe an exposure to a listed chemical may not require a Proposition 65 warning.

(Reference: <https://oehha.ca.gov/proposition-65/proposition-65-faqs>)

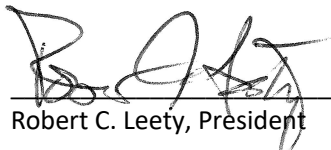
Some examples of items requiring Proposition 65 warnings are:

- Coffee
- Tiffany Lamps
- Amusement Parks
- Aloe Vera
- Hotels
- Boats
- Leather Dust
- Wooden Furniture and Flooring
- Tuna
- Pumpkin Puree
- Potatoes
- Alcohol

**Horberg’s Statement of Compliance:**

The State of California, while asserting that businesses are “discouraged” from providing warnings that are not necessary, imposes severe penalties (up to \$2500 per violation, per day) on businesses that do not adequately warn. Horberg Industries’ scope under ISO 9001:2015/AS9100D is limited to “The manufacture of pins, shafts, and similarly configured parts,” and **does not** include responsibilities for design, engineering, application, end use, nor any other authorities. While OEHHA has safe harbor levels for “many” listed chemicals, we lack any insight or facts regarding the use, installation, or application of the parts we manufacture, we have no basis for making any claims regarding hazards or exposure. ***Because of the lack of clarity in the application of the safe harbor provisions, and the onerous consequences for improper/inadequate warnings, Horberg Industries has elected to place an exposure warning (in accordance with §§ 25602(a)(4) and 25603(b), as amended) on all items that we manufacture.*** The conforming label will be affixed to all product packaging, and the corresponding warnings will appear on all quotations, order acknowledgements, and packing lists.

To request additional information, contact [rleety@horberg.com](mailto:rleety@horberg.com).

  
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Robert C. Leety, President

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