

June 11, 2018

Dear Valued Supplier Partner,

The Safe Drinking Water & Toxic Enforcement Act of 1986, also known as, **Proposition 65 (Prop 65)** is a California law that has been in effect since 1986 to promote clean drinking water and keep toxic substances that cause cancer and birth defects out of consumer products. Proposition 65 requires the State of California to publish a list of chemicals known to cause cancer or birth defects or other reproductive harm. This list, consisting of a wide range of naturally occurring and synthetic chemicals known to cause cancer or birth defects or other reproductive harm is updated at least once a year and has grown to include more than 900 chemicals since it was first published in 1987.

Prop 65 law requires that anyone at reasonable risk of exposure to be informed when substances classified as toxins are present. Proposition 65 enables Californians to make informed decisions about protecting themselves from exposure to these chemicals. It also prohibits California businesses from knowingly discharging significant amounts of listed chemicals into sources of drinking water.

California's Office of Environmental Health Hazard Assessment (OEHHA) has recently adopted new regulations (operative on August 30, 2018) that modify labeling requirements for the content and format of warnings to gain safe-harbor protection. Any company that manufactures, distributes, or sells any product that contains any one of the approximately 900 listed chemicals known to the State of California to cause cancer or reproductive toxicity and requires Prop65 warning labels will be required to modify the content of the label to include the word "WARNING" in all capital letters and bold print and further require that a symbol consisting of a black exclamation point in a yellow equilateral triangle with a bold black outline precede the warning. The new regulations further specify different safe-harbor warnings for products that contain only carcinogens, only reproductive toxicants, both listed carcinogens and listed reproductive toxicants, or a listed chemical that is both a carcinogen and reproductive toxicant.

The new safe-harbor warning for exposure to a chemical that is listed as both a carcinogen and a reproductive toxicant must now state:



WARNING: This product can expose you to chemicals including [name of one or more chemicals], which is [are] known to the State of California to cause cancer and birth defects or other reproductive harm. For more information go to www.P65Warnings.ca.gov.

The new regulations will ultimately require companies to review the listed chemicals present in a product and provide a particular warning based on the listed chemicals and the method of transmission in order to comply with the safe-harbor provisions. The requirement to disclose the name of at least one Proposition 65 chemical in the warning language may trouble many companies, who may fear adverse consumer response to the disclosure. This concern is magnified for companies outside California, where this type of warning is rarely seen and is more likely to deter consumers.

The new regulations provide alternative safe-harbor language for warnings that are placed directly on a product or a product's immediate packaging. For an on-product warning, the new regulations shorten the above warning to:



WARNING: Cancer and Reproductive Harm - www.P65Warnings.ca.gov.

