

SAFEGUARDS

CONSUMER GOODS AND RETAIL

HARDGOODS, SOFTLINES

NO. 177/13 SEPTEMBER 2013

CALIFORNIA PROP 65: REFORMULATION OF FLAME RETARDANTS IN FOAM-CUSHIONED UPHOLSTERED FURNITURE

Proposition 65 (Prop 65) is the "Safe Drinking Water and Toxic Enforcement Act of 1986", a ballot initiative passed overwhelmingly by California residents in 1986. Since its enactment, there have been numerous lawsuits which resulted in the reduction of carcinogenic and reprotoxic chemicals by reformulations of consumer products containing such chemicals¹.



On 28 October 2011, the flame retardant tris-(1,3-dichloro-2-propyl) phosphate (CAS 13674-87-8, TDCPP) was incorporated onto the Prop 65 list as a chemical that is known to cause cancer². Once a chemical is listed, businesses have 12 months to provide a 'CLEAR AND REASONABLE WARNING' before knowingly and intentionally exposing any person to a listed chemical, including TDCPP³. The warning can be provided by a number of means, such as labelling on the consumer product or by posting signs at the workplace.

In May 2013, we informed you that a Prop 65 consent agreement was reached for the flame retardant TDCPP in polyurethane foam-cushioned pads for children and infants to lie on, such as rest mats. The consent agreement listed 13 flame retardants, two of which are on the Prop 65 list (TDCPP and TCEP⁴)⁵.

In June 2013, a Prop 65 consent judgment was concluded for halogenated or phosphorus-based flame retardants, including TDCPP, in foam-cushioned upholstered furniture. Under the consent agreement, the flame retardant TDCPP is prohibited in foam-cushioned upholstered furniture on an interim basis. This interim compliance requirement remains in effect before the effective date of the Technical Bulletin TB 117-2013 'REQUIREMENTS, TEST PROCEDURES AND APPARATUS FOR TESTING THE SMOLDER RESISTANCE OF MATERIALS USED IN UPHOLSTERED FURNITURE' released by the California Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation (BEARHFTI). The final compliance requirement is the prohibition of halogenated or phosphorus-based flame retardants, including TDCPP, in foam-cushioned upholstered furniture. The effective date for final compliance is the effective date of TB 117-2013.

Highlights of the consent agreement are summarised in Table 1. It should be noted that the provisions of this consent agreement are binding upon the parties named therein, and other businesses are held only to chemicals on the Proposition 65 list, of which TDCPP is one of three flame retardants. Tris[2,3-dibromopropyl] phosphate (TRIS) and tris[2-chloroethyl] phosphate (TCEP) are the others.

¹ [Prop 65, Office of Environmental Health Hazard Assessment \(OEHHA\)](#).

² http://oehha.ca.gov/prop65/prop65_list/files/P65single072613.pdf

³ <http://oehha.ca.gov/prop65/background/p65plain.html>

⁴ Tris-(2-chloroethyl) phosphate (CAS 115-96-8)

⁵ [SafeGuards 070/13](#).

⁶ [SafeGuards 169/13](#) and references therein

Flame Retardant substance	Scope of Prop 65 Settlement	Reformulation	Effective Date
TDCPP	Polyurethane foam-cushioned upholstered furniture	Prohibited (polyurethane foam)	Interim compliance Before effective date of TB 117-2013
Halogenated or phosphorus-based compound			Final compliance Effective date of TB 117-2013

Throughout our global network of laboratories, we are able to provide a range of services, including analytical testing and consultancy, for flame retardants and other restricted substances in consumer products for compliance with Prop 65 and worldwide requirements. Please do not hesitate to contact us for further information.



FOR ENQUIRIES:

Global Competence Support Centre:
gcsc@sgs.com

HK– Hingwo Tsang (Hardgoods),
Tel: +852 2774 7420 or
Hingwo.Tsang@sgs.com

Global Softlines Development Office:
global.sl@sgs.com

Asia – Hong Kong,
Tel: +852 2334 4481,
mktg.hk@sgs.com

Australasia – Perth.
Tel: +61 (0) 3 9790 3418
au.cts@sgs.com

Europe – London – UK.
Tel: +44(0) 203 008 7860
gb.cts.sales@sgs.com

Africa & Middle East – Turkey.
Tel: +90 212 368 40 00
sgs.turkey@sgs.com

Americas – USA.
Tel: +1 973 575 5252
uscts.inquiries@sgs.com

www.sgs.com/cgmr

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