

SAFEGUARDS

CONSUMER GOODS AND RETAIL

CONSUMER PRODUCTS

NO. 203/14 NOVEMBER 2014

CALIFORNIA PROP 65 ENFORCEMENT PERIOD FOR THE PHTHALATE DINP STARTS 20 DECEMBER 2014

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 reproductive chemicals by reformulations of consumer products containing such chemicals¹.

Prop 65 is now over 27 years old and has been effective in reducing exposures to toxic chemicals. Of the 850 or so listed chemicals, phthalates have been increasingly targeted in the last few years².

On 20 December 2013, diisononyl phthalate (DINP) was added onto the Prop 65 list of chemicals as a chemical known to the state of California to cause cancer³. DINP is among the phthalates commonly used as plasticisers in various polyvinyl chloride (PVC) products such as wire and cable coatings, wall coverings, roofing, coated fabrics, self-adhesive films and automobile parts. Starting 20 December 2014 local California Attorney-generals and non-governmental organizations will be allowed to begin enforcement actions against businesses and manufacturers that fail to warn consumers about exposure to DINP.

Presence on the list requires businesses to provide a 'clear and reasonable warning' before knowingly and intentionally exposing anyone to DINP above a "safe harbor level" of exposure⁴. No "safe harbor level" has been established for DINP by the California Office of Environmental Health Hazard Assessment (OEHHA); and a business using DINP without a label will need to show that the anticipated exposure level will not pose a significant risk of cancer.

Proposition 65 regulates the exposure of the consumer to a chemical and does not directly regulate the chemical content of consumer products. Consumer product testing laboratories on the other hand are set up to test chemical content rather than exposure. The consumer product industry practice for determining content limits for chemicals is established by following a settlement. As a new addition to the Prop 65 list, it will take several months for new DINP settlements to be reached, and the most protective approach for manufacturers of consumer products will be to label for



any amount of DINP found in the product until a body of case law is established.

Highlights of 6 phthalates listed under prop 65 and a comparison of phthalates regulation under California AB 1108, CPSIA, CCPSA, and EU REACH are summarised in Table 1.

¹ [Oehha prop65](#)

² [SGS-Safeguard 14/14 and references therein](#)

³ [SGS-Safeguard 225/13](#)

⁴ [OEHHA safe harbor levels](#)

TABLE 1.

PHTHALATE	JURISDICTION / CITATION				
	US CALIFORNIA		US FEDERAL	CANADA	EU
	PROP 65	CHAPTER 762, STATUTES OF 2007 (AB 1108)	PUBLIC LAW 110- 314 (CPSIA) ⁵	CCPSA ⁶ (S.C. 2010, C.21) PHTHALATES REGULATION (SOR/2010-298) ⁷	REACH, ANNEX XVII [REGULATION (EC) 552/2009] ⁸
BBP	√	√	√	√	√
DBP	√	√	√	√	√
DEHP	√	√	√	√	√
DIDP	√	√	√	√	√
DINP	√	√	√	√	√
DNOP	-	√	√	√	√
DnHP	√	-	-	-	-

DEFINITIONS

ITEM	ACRONYM	NAME
1	BBP	Benzylbutyl phthalate
2	DBP	Dibutyl phthalate
3	DEHP	Di-(2-ethylhexyl) phthalate
4	DIDP	Diisodecyl phthalate
5	DINP	Diisononyl phthalate
6	DNOP	Di-n-octyl phthalate
7	DnHP	Di-n-hexyl phthalate

NOTE

√ = listed

- = not listed

⁵ [Consumer Product Safety Improvement Act of 2008](#)⁶ [Canada Consumer Product Safety Act](#)⁷ [Phthalates Regulations-SOR/2010-298](#)⁸ [Table of substances/group of substances which are restricted by Annex XVII to REACH Regulation](#)

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



FOR ENQUIRIES:

Global Competence Support Centre:
gcsc@sgs.com

US– William.Baxter, Tel: +01 973 233 5775 or
William.Baxter@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

© SGS Group Management SA – 2014– All rights reserved
- SGS is a registered trademark of SGS Group Management SA. This is a publication of SGS, except for 3rd parties' contents submitted or licensed for use by SGS. SGS neither endorses nor disapproves said 3rd parties contents. This publication is intended to provide technical information and shall not be considered an exhaustive treatment of any subject treated. It is strictly educational and does not replace any legal requirements or applicable regulations. It is not intended to constitute consulting or professional advice. The information contained herein is provided "as is" and SGS does not warrant that it will be error-free or will meet any particular criteria of performance or quality. Do not quote or refer any information herein without SGS's prior written consent.