PROPOSITION 65 COMPLIANCE IN PRACTICE

Supply Chain, Testing, and Real-World Challenges

SUPPLY CHAIN & INFORMATION FLOW

RAW MATERIAL SUPPLIER	COMPONENT MANUFACTURER	FINISHED PRODUCT MANUFACTURER / IMPORTER	DISTRIBUTOR / WHOLESALER	RETAILER / E-COMMERCE PLATFORM	CALIFORNIA CONSUMER
• Composition • Specifications	• Chemical Info • SDS / Declarations	• Testing Results • Exposure Info	• Change Notifications • Certifications	• Warning Instructions • Product Use Info	• Clear & Reasonable Warning

INFORMATION THAT SHOULD FLOW

COMMON BREAK POINTS

- Information missing or incomplete
- Supplier won't disclose formulation
- SDS doesn't answer Prop 65 question
- No change-control notification
- Different testing protocols / labs
- Retailer never receives warning info
- Online & in-store warnings don't match

Potential break in information flow

NORMAL COMPLIANCE LIFECYCLE

We are selling this product in California. What do we actually do?

- Factual / Supply Chain Questions
- Scientific Questions
- Legal / Business Questions
- Uncertainty / Challenge Zone

Questions often not asked

WHAT DO WE KNOW ABOUT THE PRODUCT?

- Supplier declarations
- Formulation / specs
- SDS
- Prior testing
- Materials / components

DO WE HAVE ENOUGH INFORMATION?

YES

NO
- Supplier inquiry
- Request info
- More testing

POTENTIAL PROP 65 CHEMICAL PRESENT?

NO
- Document basis
- Monitor for change

YES — *Maybe move to next steps*

IS THERE AN EXPOSURE?

- How is the product used?
- Route of exposure?
- Frequency / duration?
- Amount transferred / released

HOW DO WE ESTABLISH EXPOSURE?

- Analytical testing
- Exposure assumptions and modeling
- Product use information

UNCERTAINTY / CHALLENGE ZONE – REAL-WORLD ISSUES

- *Supplier says "Prop 65 compliant" – what does that mean?*
- *Supplier won't disclose formulation*
- *Variation in lab methods, lots, colors, or components*
- *Testing after 60-day notice differs from historical*
- *Too many SKUs to test everything*
- *Detection limit ≠ Exposure level*
- *No OEHHA safe harbor level*
- *Exposure assumptions drive the outcome*
- *Chemical detected at very low concentration*
- *Material or formulation changes without notice*
- *Science answer and business answer may not be the same*

APPLY LEGAL / SCIENTIFIC FRAMEWORK

- OEHHA Safe Harbor level?
- Exposure analysis?
- Clear & reasonable standard
- Short-form warning requirements (2025+)?

60-DAY NOTICE RECEIVED – NOW WHAT?

A. WHAT IS ALLEGED?
• Product / SKU • Chemical • Exposure

A.1 Employees?
• Less than 10?

A.2 NOE
• Naturally Occurring Exemption?

B. WHAT DID WE KNOW
BEFORE THE NOTICE?
• Supplier info • Testing • Analysis
• Prior decisions

C. CAN WE REPRODUCE
• Claimant's results?

D. DEEP DIVE INVESTIGATION
• Sampling • Methods • Concentration
• Exposure assumptions • Safe harbor analysis

E. OPTIONS & RESPONSE
• Warn? • Reformulate? • Defend? • Settle?
• Supplier responsibility / indemnity?
• Business / market considerations?

F. OUTCOME
• Resolve matter
• Implement corrective actions

COMPLIANCE / BUSINESS DECISION

EXPOSURE CLEARLY BELOW THRESHOLD
- No warning
- Maintain substantiation
- Monitor for changes

EXPOSURE REQUIRES A WARNING
- Provide warning
- Or reformulate / change supplier / reduce exposure

UNCERTAIN / BORDERLINE / NO SAFE HARBOR
- Consider risk tolerance
- Re-test / re-evaluate
- Deep scientific work

IMPLEMENTATION
- Warnings (2025 short-form rules)
- Labels, packaging, online
- Downstream communication
- Train teams & partners

MONITOR / RETEST / CHANGE CONTROL
- Monitor regulatory updates
- Re-test as needed
- Supplier change control
- Document everything

BEST IF LESSONS LEARNED FEED BACK TO SUPPLY CHAIN

- Improve supplier requirements & contracts
- Enhance specifications & chemical limits
- Refine testing strategy & lab protocols
- Improve exposure assumptions & use info
- Strengthen change control & notifications
- Update warning process & downstream flow
- Reformulate / redesign if needed

THE BIG PICTURE

Under idealized conditions, Prop 65 compliance involves identifying listed chemicals, evaluating exposure, determining whether a warning or other action is needed, and documenting and communicating those decisions through the supply chain. Product changes, new information, testing, and enforcement can require the analysis to be revisited.

Bernard Beckerman, PhD
<beckerman@retra-ehs.com.

© 2026 RETRA LLC