



## California Proposition 65 updated labeling requirements affecting distributors of hoses and hose accessories

For all products acquired after August 30, 2018, California's Proposition 65 (or "Prop 65" as it is often referred) requires businesses to notify consumers with "clear and reasonable" warnings of potentially hazardous chemicals present in products. California requires warning labels on all products that contain chemicals found on the state's [list of over 850 compounds](#). A warning label must identify that the product contains chemicals "known to the State of California to cause cancer and birth defects or other reproductive harm."

### What this means for the industry:

The basis of the regulation is a warning label (including a triangle and exclamation mark) and the associated text that includes the specific chemicals that triggered the warning in order to warn customers who will use the product. It's important to note that the maker of the product bears full responsibility to identify if their product is subject to the regulation and to distribute the warning label and text to everyone in their distribution chain. It is the responsibility of the distributors and retailers to faithfully display the warning label and text wherever anyone may encounter the product. The new regulations include several new requirements for safe harbor warnings:

- Include the word "**WARNING**" in all capital letters and bold print
- List at least one chemical contained in the product
- Require that a symbol consisting of a black exclamation point in a yellow equilateral triangle with a bold black outline precede the warning
  - The triangle can be printed in black and white if no other yellow content is on the product or package
- The font size cannot be any smaller than the smallest consumer information font on the product or package.
- The warning text should notify a consumer if the product contains carcinogens, reproductive toxins, or both.
- If the product is sold over the internet, the warning must also be present on the product display webpage, prior to purchase.
- If non-English consumer information is printed on the product, the warning must also be printed in the same language.



**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](http://www.P65Warnings.ca.gov).

**Additional information on Proposition 65 is available at:**  
[www.p65warnings.ca.gov](http://www.p65warnings.ca.gov)

What types of chemicals are on the list of regulated compounds?

The [list](#) contains a wide range of naturally occurring and synthetic chemicals. These chemicals include additives or ingredients in a variety of products. Listed chemicals may also be used in manufacturing or may be byproducts of chemical processes, such as motor vehicle exhaust.

Many Material Safety Data Sheets will include Prop 65 information.

How do I comply?

NAHAD encourages distributors to contact their suppliers about including warnings for all products sold in California, however the new regulations do not require the manufacturer to supply the warning if they document that they have notified retailers of the need to provide warnings and provided all necessary warning materials. Be sure to check any MSDS/SDS information provided by suppliers for this information, if none is included it is important to verify with the manufacturer the product does not contain one of the covered compounds. Retailers are responsible for providing warnings if they have been notified and the manufacturer failed to provide the warnings.

What about existing Prop 65 warning signs?

Signs must be updated to meet the same requirements as the updated warning labels. The signs must also use at least size 72 font.

Can I get an exemption?

The only exempt businesses are those with fewer than 10 employees.

Can I use a different warning label than the Safe-harbor warning label?

The Safe-harbor label meets the minimum requirements in the updated regulation, but a company can use any warning that is “clear and reasonable” as long as it also meets the minimum requirements (see previous page for minimum requirements). However, any warning can be challenged by a plaintiff and must be defended in court. A cottage industry of lawyers has developed looking for inadequate Prop 65 warnings. Since 2012, over 3,000 settlements have been finalized between Prop 65 lawyers and businesses.

What are the risks for not complying with the updated regulations?

Bounty hunter style lawyers will look to take advantage of the updated regulations to seek new claims against businesses. Even though products manufactured prior to August 30 do not need

the updated warnings, unless the business can verify the product was manufactured prior to August 30, 2018, there is a potential for claims.

What about litigation insurance?

Distributors should verify with their insurance provider if Prop 65 litigation will be covered. Some insurance policies do not cover Prop 65 litigation costs.

**Additional information on Proposition 65 is available at:**

**[www.p65warnings.ca.gov](http://www.p65warnings.ca.gov)**