

Proposition 65 Settlement Di-n-Hexyl Phthalate in Modelling Clays

In November 2007, a consent judgment was settled and entered between the Center for Environmental Health (CEH, a non-profit organisation enforcing California Proposition 65 in the public’s interest) and a modelling clay company for using di-n-hexyl phthalate (DnHP) without first providing a clear and reasonable warning.

California’s Proposition 65 is now over 20 years old and has been a success in reducing exposures to toxic chemicals. It allows Californian residents to eliminate carcinogens and reprotoxic chemicals from consumer products and industrial activities. Since its enactment, there have been numerous lawsuits which resulted in the reduction of these toxic chemicals and significant reformulations of consumer products containing toxic chemicals, often leading to implementation on a national level.

Persons, unless otherwise exempted, doing businesses with ten or more employees may not expose individuals to chemicals known to cause cancer or reproductive toxicity without first giving clear and reasonable warning, nor discharge such chemicals into drinking water. Proposition 65 applies to a current list of approximately 800 chemicals identified by the state of California as causing cancer or reproductive toxicity.

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Under consent agreement San Francisco Superior Court Case No. CGC-07-466897, the modelling clay company shall not manufacture, distribute, ship, sell or authorise to be manufactured, distribute or sold, any product in California that is comprised of DnHP. To demonstrate whether DnHP is present, all testings shall be performed in accordance with 2 specified test protocols (Table 1).

Table 1. Testing methods for DnHP in Modelling Clay

Phthalate	Product	Testing Method
DnHP	Modelling Clay	EPA SW 8270C and EPA SW 3580A

California recently approved AB 1108 'Children's Products: Phthalates' which will come into force in January 2009¹. Some of the phthalates that are known to the State of California to cause cancer or reproductive toxicity are different to those listed under AB 1108 (Table 2)

Table 2. Comparison of Phthalates between California AB 1108 and Phthalates known to the State of California to cause cancer or reproductive toxicity

Phthalate	Abbreviation	Bill / Prop 65	
		AB 1108	Phthalates known to the State to cause Cancer or Reproductive Toxicity
Di-(2-Ethylhexyl)	DEHP	✓	✓
Dibutyl	DBP	✓	✓
Benzyl Butyl	BBP	✓	✓
Di-isononyl	DINP	✓	x
Di-isodecyl	DIDP	✓	✓
Di-n-Octyl	DNOP	✓	x
Di-n-Hexyl	DnHP	x	✓

✓ = listed

x = not listed

Phthalate = Dialkyl - or diaryl ester of 1,2-benzenedicarboxylic acid

Note

EPA SW 8270C 'Semivolatile Organic Compounds by Gas Chromatography / Mass Spectrometry (GC/MS)'
EPA SW 3580A 'Waste Dilution'



SGS is able to provide a range of services, including analytical testing and consultancy, for phthalates in a range of consumer products including but not limited to toys and childcare articles as well as food contact plastics.

Please do not hesitate to contact us for further information

¹ Safeguards 89/07 'California - First State in the US to Restrict Phthalates in Toys and Childcare Articles'

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