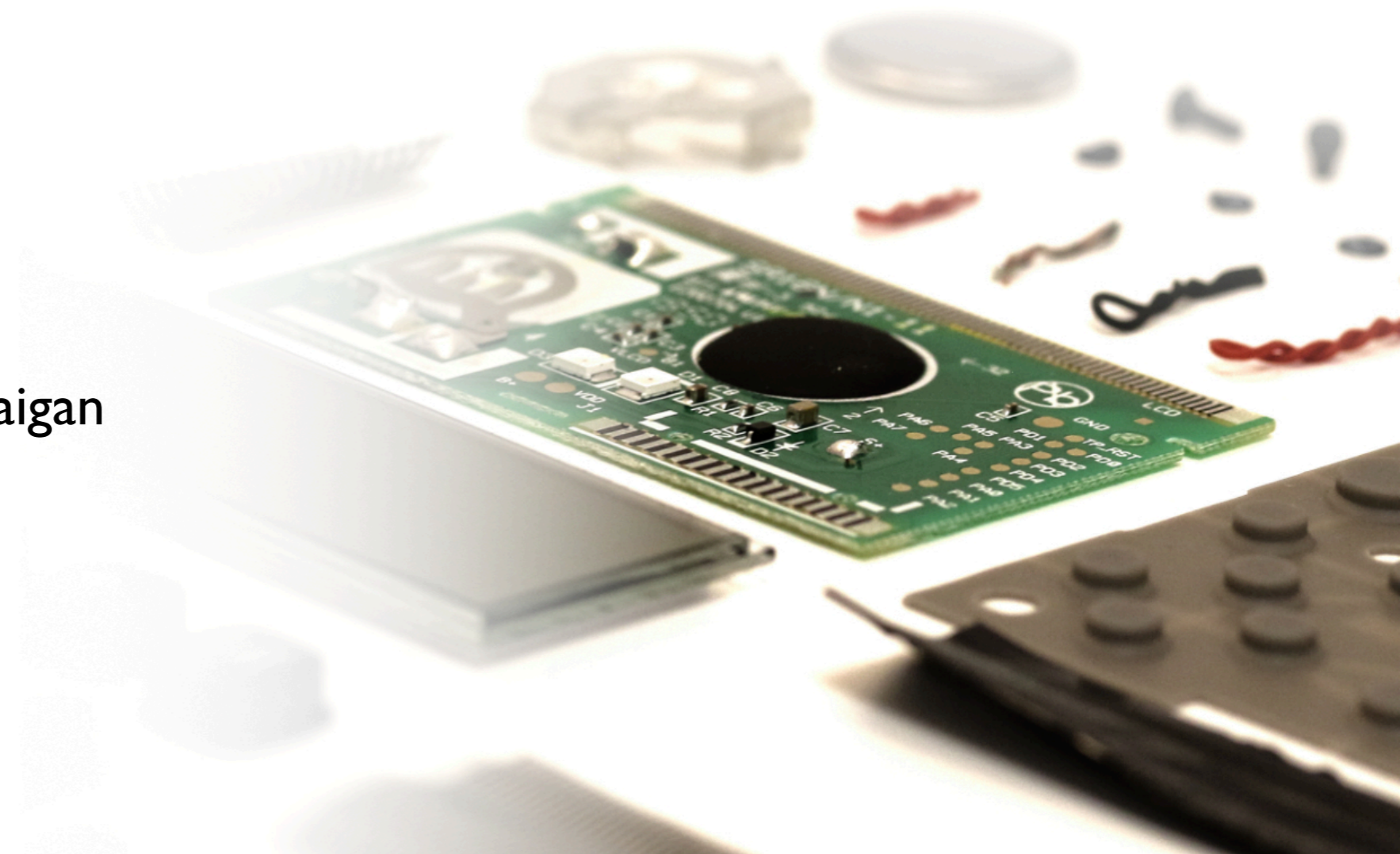


California Proposition

New warnings and substances

Presented by:
Bruce Calder
VP Consulting Services at Claigan

January 19 2021



Overview - Agenda

- Introduction
- California Proposition 65
 - Basics
 - Current situation
 - Enforcement
- Proposed new warnings
 - Substances
 - Long form
 - Short form
- New Prop 65 substances
 - 6 new prop 65 substances
- Compliance approaches
 - Why data gathering does not work for Prop 65
- Q&A



Claigan Proposition 65

- Prevention
 - Claigan has tested thousands of products for Prop 65
- Defense
 - Claigan has been the technical reference for 20+ Prop 65 litigations / notices
- Claigan is **the leader** in Prop 65 compliance

US (California) - Proposition 65 - Overview

- The Safe Drinking Water and Toxic Enforcement Act of 1986
- Summary
 - > 900 substances
 - If a consumer or worker is exposed over the daily exposure limit (in ug/day), the manufacturer is required to either
 - Remove the substance, or
 - Put a warning on the product / packaging / insert
 - Enforcement
 - Private citizens can enforce Prop 65 directly

US (California) - Proposition 65 Notices

- December 2021:
 - Two hundred fifty-three (253) notices
- Products / substances involved
 - Physical articles
 - Phthalates - flexible PVC
 - Pb - glassware with exterior decorations, solder wire, brass, ceramic spoons
 - BPA - iPhone case, toolbox handles, nerf bat
 - Hex chrome - leather gloves
 - N-Nitrosodiethylamine - Latex bands
 - Others -
 - Pb, Cd, Hg - food, (dietary supplements, seafood, veggie crisps, pasta)
 - Acrylamide - cookies, chips, nuts
 - Benzene - hand sanitizer spray, food spray
 - Diethanolamine - gels (such as tea tree gel or pain relief gel), mascara
 - Titanium dioxide (blush)
 - Coconut DEA (shampoo)

Exposure Types


- Three (3) different types of exposure
- Consumer exposure
 - Exposure to a private citizen
- Occupational exposure
 - Exposure to a worker or employee
- Environmental exposure
 - Exposure to the environment (often water or air)

Warning Placement (Current)

- Warnings
- On product or direct packaging
 - Short Form

 **WARNING** Cancer and Reproductive Harm - www.P65Warnings.ca.gov

- As insert
 - Long form

 **WARNING** This product can expose you to chemicals including Lead and Lead compounds, which is 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.

New Proposition 65 Warnings

- New warnings text
 - New rules for warnings
- Timeline
 - New draft version available now
 - In consultation now until January 21 2022
 - Final version ~March 2022
 - In effect ~March 2023
- Timeline
 - <https://oehha.ca.gov/proposition-65/crnrr/notice-modification-text-proposed-regulation-title-27-california-code-3>



New Proposition 65 Warnings

Where to Start....

- Warnings
 - Requires the identification of
 - One reproductive toxin (if one is present), and
 - One carcinogen (if one is present)
 - For both short and long form warnings
- Substance(s) to be identified can be a single substance that is both a carcinogen and a reproductive toxin
 - ex. Lead or DEHP



New Proposition 65 Warnings Long Form vs Short Form

- Short form
 - Can only be used IF
 - The total surface area of the label available for consumer information is 12 square inches or less, and;
 - The packaging cannot accommodate the full length warning, and;
 - The entire warning may not be in a type set smaller than the largest type set used for other consumer information on the product (and in no case smaller than 6 point type)



New Proposition 65 Warnings Substance Identification

- Substance Identification
 - Requires the identification of
 - One reproductive toxin (if one is present), and
 - One carcinogen (if one is present)
 - For both short and long form warnings
- Substance(s) to be identified can be a single substance that is both a carcinogen and a reproductive toxin
 - ex. Lead or DEHP



New Proposition 65 Warnings

New Options for Warnings

- Warning options
 - First phrase after warning can now be any of the following
 - **WARNING:** or
 - **CA WARNING:** or
 - **CALIFORNIA WARNING:**
 - For both short and long form warnings



WARNING:



CA WARNING:



CALIFORNIA WARNING:



CALIFORNIA REPUBLIC

New Proposition 65 Warnings Long Form Warning

- Warning options
 - Triangle with exclamation point
 - One of the WARNING header
 - **WARNING** or
 - **CA WARNING:** or
 - **CALIFORNIA 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”
 - (With ‘including chemicals’ being removable if only one chemical)




CALIFORNIA WARNING: This product can expose you to Lead which is 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.

New Proposition 65 Warnings

Short Form Warning

- Warning options

- Triangle with exclamation point
- One of the 3 WARNING headers
- Either
 - “Cancer risk and Reproductive harm from [name of chemical] exposure - www.P65warnings.ca.gov.” or
 - “Exposes you to [name of chemical], a carcinogen and reproductive toxicant - www.P65Warnings.ca.gov.”
 - (With slightly different variations in two chemicals, or the one chemical is only a carcinogen or only a reproductive toxin)



CA WARNING: Cancer risk and Reproductive harm from DEHP exposure - www.P65warnings.ca.gov.

Or



CA WARNING: Exposes you to DEHP, a carcinogen and reproductive toxicant - www.P65Warnings.ca.gov.

New Proposition 65 Substances

- Listed at end of December 2021
 - In effect December 2022
- Substances
 - Tetrahydrofuran
 - 2-Ethylhexyl acrylate
 - Methyl acrylate
 - Trimethylolpropane triacrylate, technical grade
 - PFOS
 - PFNA

US (California) - Proposition 65 - New Listings

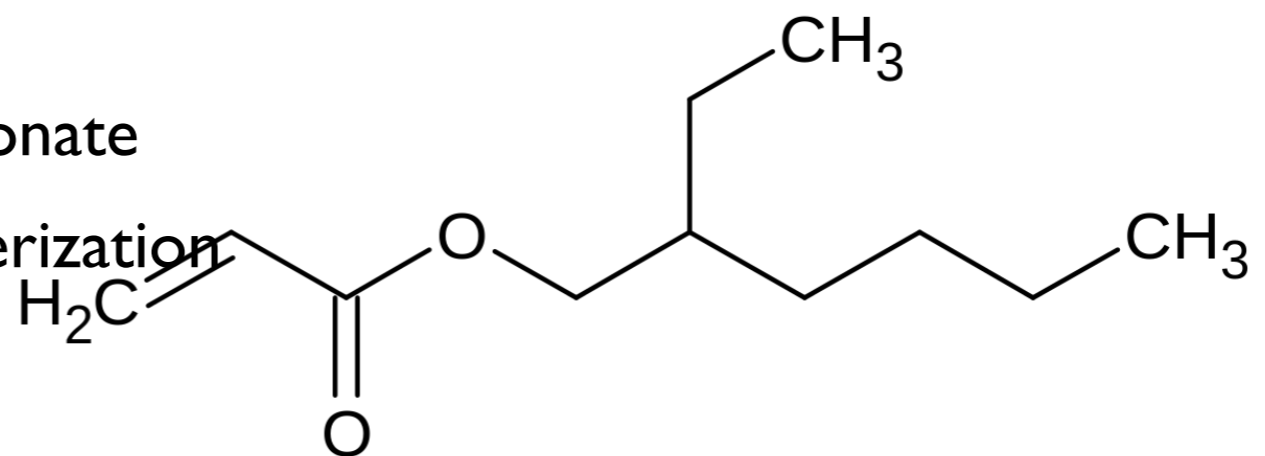
- **Details**

- 2-Ethylhexyl acrylate (CAS RN 103-11-7)

**Low Risk unless
wearable /
invasive acrylic**

- **Uses**

- monomer
 - adhesives
 - industrial coatings
 - paints
- **acrylics**
 - PMMA (ie. plexiglass)
 - Replacement for polycarbonate
 - trace residual after polymerization



US (California) - Proposition 65 - New Listings

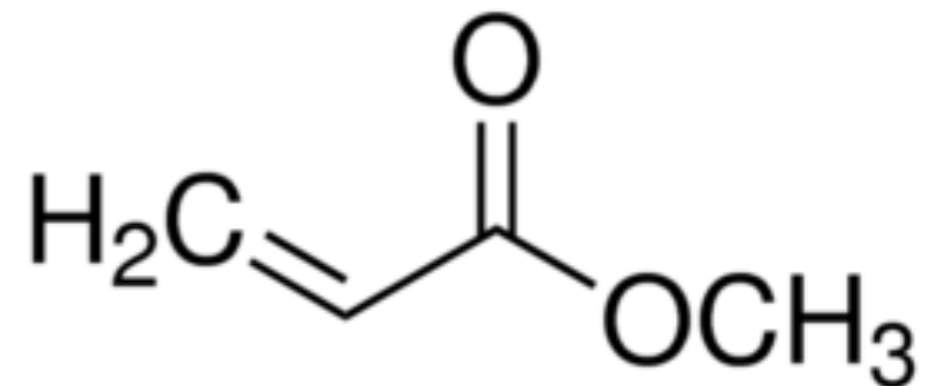
- **Details**

- Methyl acrylate (CAS RN 96-33-3)

**Low Risk unless
wearable /
invasive acrylic**

- **Uses**

- Comonomer
 - acrylic fibre
 - thermoplastic coating
 - adhesives
 - sealants
 - **acrylics**
 - PMMA (ie. plexiglass)
 - Replacement for polycarbonate
 - trace residual after polymerization



US (California) - Proposition 65 - New Listings

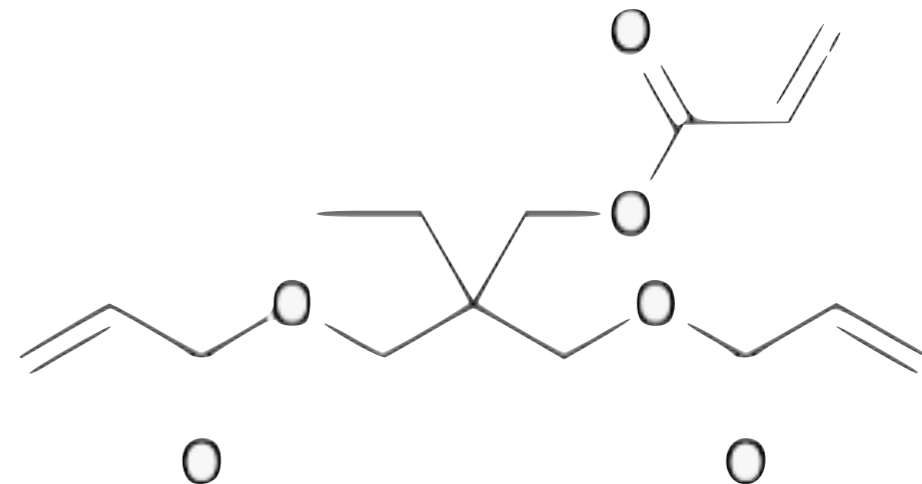
- **Details**

- Trimethylolpropane triacrylate, technical grade

**Low Risk unless
wearable /
invasive acrylic**

- **Uses**

- Intermediate
 - adhesives, sealants
 - Coatings
 - UV inks



US (California) - Proposition 65 - New Listings

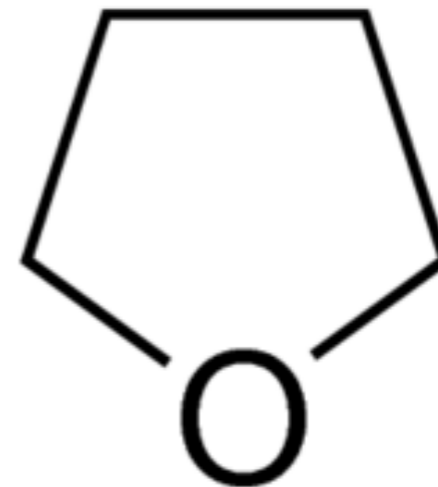
- **Details**

- Tetrahydrofuran (CAS RN 109-99-9)

**Low Risk unless
wearable 'spandex'**

- **Uses**

- Solvent
 - coatings
 - cleaning agents
 - inks, paints
 - polymer production
 - Spandex, Lycra, Elastane
 - (polyether-polyurea copolymers)
 - trace residual solvent



US (California) - Proposition 65 - New Listings

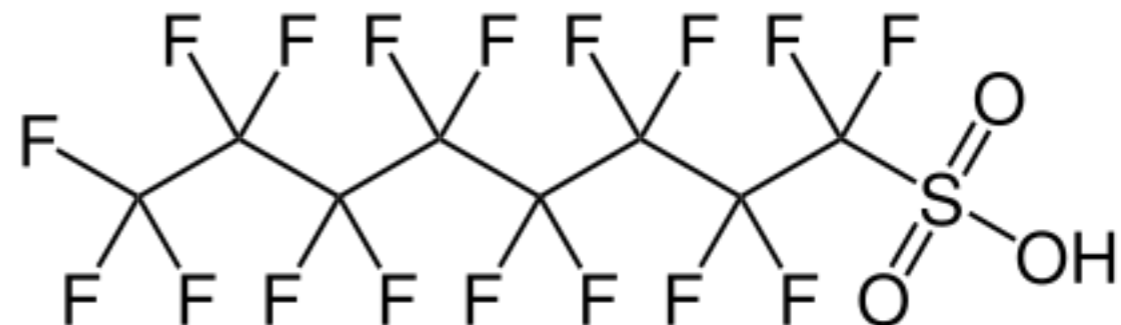
- **Details**

- PFOS (CAS #1763-23-1)
 - Perfluorooctanesulfonic acid

**Low Risk unless
wearable / invasive
fluoropolymer**

- **Uses**

- Surfactant
 - Processing aid for fluoropolymers and fluoropolymer coatings



US (California) - Proposition 65 - New Listings

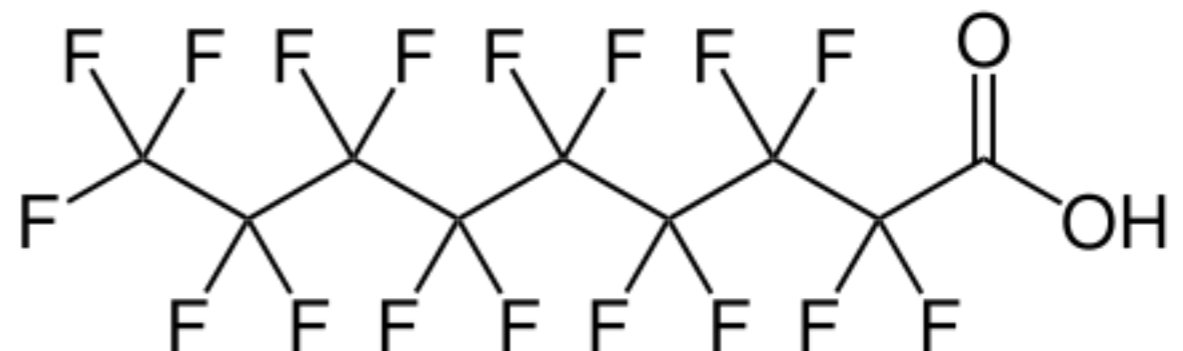
- **Details**

- PFNA (CAS # 375-95-1)
 - Perfluorononanoic acid
 - LC-PFAC
 - 9 Carbon version of PFOA

**Low Risk unless
wearable / invasive
fluoropolymer**

- **Uses**

- Surfactant
 - Processing aid for fluoropolymers and fluoropolymer coatings



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Supplier Data Gathering - Issues

- What is declarable in an SDS is not often declarable in final product
- Reason
 - Base plastics are in pellet or flake form
 - Paints are in liquid or powder form
 - Inhalation risk
 - Brings in inhalation risk chemicals
 - titanium dioxide, carbon black, and trace monomers & solvents (ethyl benzene, styrene, 1-3 butadiene)
- But not high risk in final product
 - non-inhalable



Claigan Proposition 65

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- Testing
 - Straight forward for a product
 - Covers all risks (including inhalation if applicable)
 - Identifies warning specifics (or justifies non-warning)
 - Can be included with other regulations (TSCA, PFAS, REACH, etc.)
- Just email us
 - We solve Prop 65

Claigan Proposition 65

Claigan



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Q&A