

# **OEHHA To List six new Chemicals and Finalize New Regulations**

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# OEHHA Lists Para-chlorobenzotrifluoride (PCBTF)

By Jack Schatz | OEHHA To List six new Chemicals and Finalize New Regulations

California's Office of Environmental Health Hazard Assessment (OEHHA) has added Para-chlorobenzotrifluoride (PCBTF) to its list of carcinogens under Proposition 65. also add para-chlorobenzotrifluoride (PCBTF), a solvent to the Proposition 65 list of carcinogens.

Companies using any of approximately 900 substances listed under Prop 65 are required to provide warnings to Californians that using their products may possibly expose them to the chemicals identified as carcinogens or toxic to the reproductive system.

In its notice of intent, to list the OEHHA announced that it's taking the steps to list PCBTF based on the 'authoritative bodies' mechanism after a 2018 National Toxicology Program (NTP) reported "clear evidence" of PCBTF's carcinogenicity.

The NTP's report on PCBTF's carcinogenicity was titled "*Toxicology and Carcinogenesis Studies of p-Chloro- $\alpha,\alpha$ -Trifluorotoluene in Sprague Dawley Rats.*" The reported findings met the sufficiency of the evidence and formal identification criteria required to be added to the Prop 65 list. PCBTF is also used as a solvent in inks, coatings, and paints.

The use of PCBTF is important for manufacturers in California because its contribution to ground-level ozone formation is insignificant which makes PCBTF an approved alternative solvent that meets the strict requirements for volatile organic compound (VOC) emissions.

The public comments period on the PCBTF proposal was initially set to end on December 24, 2018, but the American Coatings Association (ACA) requested an extension. California's Office of Environmental Health Hazard Assessment (OEHHA) agreed to extend the public comment period until January 23, 2019.

PCBTF was listed as a Proposition 65 carcinogen on June 28, 2019. The effective date of the listing is the same as the listing date. The enforcement date for (PCBTF) will take effect on June 28, 2020.



*(PCBTF) is a carcinogenic and useful solvent*

# Defense Punts on Motion to Dismiss Prop 65 Case

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Plaintiffs' attorney Mark Lanier a Los Angeles based attorney has filed a motion in court for the dismissal of a case that seeks to require cancer warnings on Johnson & Johnson's baby powder products sold in California.

However, Johnson & Johnson, the defendant, opposed the motion and accused Lanier of intentionally stalling the case.

Lanier of The Lanier Law Firm filed the case under California's Safe Drinking Water and Toxic Enforcement Act of 1986 AKA Proposition 65 in Los Angeles County Superior Court. His clients were seven California residents who claim they were misled about the safety of J&J's Shower to Shower and baby powder products. Asbestos, a carcinogen was found on both products.

Proposition 65 requires businesses to provide a "clear and reasonable warning" before exposing consumers to listed carcinogens and Reproductive, and or developmental toxicants that potentially can cause birth defects or other developmental harm.

Lanier's suit also sought for restitution and civil penalties of \$2,500 daily for each violation.

On April 18, plaintiffs moved to amend their complaint to add Valeant Pharmaceuticals North America LLC as another defendant. They claimed that they found out that Shower to Shower products have been owned by Valiant since 2012, but some stores still carried the product with the Johnson & Johnson label. They added that both companies used talc sourced from the same Chinese mines that contained asbestos.

Michael Akselrud, an associate at the Lanier Law Firm said that the purpose of the motion was to bring all parties that violated Proposition 65 to court in one case.

According to Akselrud, he intended to refile the case.

Both Valeant which was renamed Bausch Health US LLC and Johnson & Johnson opposed the amendment. The defendants saw it as the plaintiff's way to buy more time.

Johnson & Johnson attorney Elyse Echtman noted that the plaintiffs already knew about J&J's sale of Shower to Shower.

According to Echtman, now that they have records that show that the plaintiffs have known that the products are safe, they are asking the court for voluntary dismissal of the case "so that they can try again."

Lanier and Michael Akselrud did not respond to requests for comment.

A hearing is set for July 29.

Echtman wrote that the plaintiffs are apparently not satisfied with the strategies they have developed "which

is why they seek court permission for a complete do-over.”

J&J also noted that only one of the five plaintiffs who sat for depositions knew they were parties in a lawsuit. Some of them were not aware of Prop 65.

Johnson & Johnson attorney Peter Bicks said that the lawsuit “was completely lawyer manufactured,”

In a [response filed](#), Akselrud refused to consider the defendant’s concerns about the plaintiffs’ lack of awareness about the case. He said that cases against Johnson & Johnson that its talcum powder products contain asbestos have been widely publicized.

Akselrud wrote that the “FDA’s warnings about asbestos in cosmetic products demonstrates the merits of plaintiffs’ case.”

FDA’s warnings about asbestos will probably not be enough for the Lanier firm to get out of the mess they have created, but stranger things have happened in Prop 65 litigation. If the case proceeds beyond the July



29 hearing date, it may proceed to trial in October 2019.

# OEHHA Posts Fact Sheet on Styrene

By LisaLisa | OEHHA To List six new Chemicals and Finalize New Regulations

California's Office of Environmental Health Hazard Assessment (OEHHA) recently posted a fact sheet about styrene on its Proposition 65 warning website. The fact sheet includes a strange recommendation concerning polystyrene. The Proposition 65 warnings website was a rulemaking initiative undertaken by OEHHA to increase the level of detail provided about chemicals on the Proposition 65 lists.

OEHHA listed [styrene](#) as a carcinogen under the state's Safe Drinking Water and Toxic Enforcement Act of 1986, also known as Proposition 65, on April 22, 2016, and on May 4, 2017, the California Office of Administrative Law approved a No Significant Risk Level (NSRL) for styrene of 27 µg per day.

Proposition 65 requires companies to provide a warning if exposure from the use of a product to a listed carcinogen will exceed a No Significant Risk Level derived using regulatory criteria. For some substances, like styrene, OEHHA has published NSRLs, which are deemed "safe harbors," meaning that products associated with exposures below the NSRL need not carry a warning statement.

The styrene fact sheet suggests that "Small amounts of styrene can be transferred to some food from polystyrene-based food-contact items such as drinking cups, plates, and other containers." One way to reduce potential exposure to styrene, suggested by OEHHA on the fact sheet is: "If possible, do not store or microwave food in polystyrene-based containers." Including this recommendation is perplexing since, in a final statement of reasons supporting the NSRL for styrene of 27 µg per day, OEHHA stated:

"It should be emphasized that the chemical that is listed under Proposition 65 is styrene, not polystyrene. The American Chemical Council, a prominent trade association notes that Styrene is the monomer used for the production of polystyrene. A warning for styrene would only be required in cases where residual levels of styrene in polystyrene food packaging materials result in exposures that pose a significant cancer risk, i.e., styrene exposures greater than 27 µg/day. The levels of such residual styrene in polystyrene food packaging materials are generally thought to be fairly low in most cases,"

The trade association said.

(See <https://oehha.ca.gov/media/downloads/crrr/styrenefsr05112017.pdf>.)



# State AGs Want Role in Regulation of CBD-Products

By LisaLisa | OEHHA To List six new Chemicals and Finalize New Regulations

## State AGs Want Role in Regulation of CBD-Products



Tuesday, July 24, 2019

Many state regulators are closely watching the U.S. Food and Drug Administration (FDA) as it works through the challenges associated with regulating cannabidiol (CBD) products. Under the Federal Food, Drug and Cosmetic Act (FD&C Act), CBD cannot lawfully be added to a food or marketed as a dietary supplement; however, industry has been pressuring the Agency to create a pathway for the lawful use of CBD in food and dietary supplements through either an exception by regulation to the FD&C Act or through a nonenforcement policy.

As previously reported The FDA held a public meeting on May 31, 2019, to obtain scientific data and information about the safety of FDA-regulated products containing cannabis or cannabis-derived compounds. The Agency has made clear that outstanding questions related to the safety of CBD products must first be addressed before a regulatory framework can be established for lawfully marketing foods and dietary supplements containing CBD.

In response to FDA's request for safety data and information, on July 16, 2019, a coalition of 37 Attorneys Generals submitted a letter to the agency, urging the Agency to cooperate with the states to protect consumer from false advertising and potential harms to their health from products containing cannabis or cannabis-derived compounds, including CBD. The letter also urged the Agency to develop ongoing assessments of potential risk and benefits of these products, including how they interact with other dietary or pharmaceutical products. Ultimately, the letter requests that the FDA "ensure that states maintain a role as regulators in this emerging market." Because now CBD products are now widely available in many U.S states and territories, it is not surprising that public health officials and state regulators seek a role in the regulation of these products.

# OEHHA Proposes Prop 65 listings for Six Chemicals

By LisaLisa | OEHHA To List six new Chemicals and Finalize New Regulations

California's Office of Environmental Health Hazard Assessment (OEHHA) announced it intends to list six nitrobenzene chemical candidates and other industrial chemicals as carcinogens under Proposition 65.

The nitrobenzene compounds included in the proposed listing include:

- 2-amino-4-chlorophenol;
- 2-chloronitrobenzene;
- 1,4-dichloro-2-nitrobenzene;
- 2,4-dichloro-1-nitrobenzene;
- N,N-dimethylacetamide;and
- Para-nitroanisole

OEHHA intends to list the chemical candidates named above by the Labor Code' listing mechanism to add the proposed chemicals to the Proposition 65 List of Carcinogens.

The proposed listings were based on determinations made by the International Agency for Research on Cancer (IARC) that the substances are possibly carcinogenic to humans (Group 2B), based on sufficient evidence of carcinogenicity in animals.

When finalized, businesses will be required to provide Prop 65 warnings where there are exposures to these chemicals above 'Safe Harbor' thresholds if and when they are established by the agency.

- 2-Amino-4-chlorophenol is a light brown colored crystalline solid. that may be toxic by ingestion. It is insoluble in water. It is used as an intermediate to create other chemical compounds.

**PubChem CID:** 7265

**Molecular Weight:** 143.57 g/mol

**Molecular Formula:** C<sub>6</sub>H<sub>6</sub>ClNO or HOC<sub>6</sub>H<sub>3</sub>...

**Chemical Names:** 2-Amino-4-chlorophenol95-

2-Nitrochlorobenzene is an organic compound with the formula ClC<sub>6</sub>H<sub>4</sub>NO<sub>2</sub>. It is one of three isomeric nitrochlorobenzenes. It is a yellow crystalline solid that is important as a precursor to other compounds due to its two functional groups.

[Formula:](#) C<sub>6</sub>H<sub>4</sub>ClNO<sub>2</sub>

[Boiling point:](#) 474.8°F (246°C)

[Solubility in other solvents:](#) Highly soluble in [diethyl ether](#), benzene, and hot ethanol

[Molar mass:](#) 157.553 g/mol

[Formula:](#) C<sub>6</sub>H<sub>4</sub>ClNO<sub>2</sub>

[Boiling point:](#) 474.8°F (246°C)

[Solubility in other solvents:](#) Highly soluble in [diethyl ether](#), benzene, and hot ethanol.

[Appearance:](#) Yellow crystals

[ChemSpider ID:](#) 13853953



1,2-Dichloro-4-nitrobenzene is an organic compound with the formula  $1,2\text{-Cl}_2\text{C}_6\text{H}_3\text{-4-NO}_2$ . This pale yellow solid is related to 1,2-dichlorobenzene by the replacement of one H atom with a nitro functional group. This compound is an intermediate in the synthesis of agrochemicals.

**Formula:**  $\text{C}_6\text{H}_3\text{Cl}_2\text{NO}_2$

CAS No. 611-06-3

- N, N-dimethylacetamide N, N-dimethylacetamide is a member of the class of acetamides that is acetamide in which the hydrogens attached to the N atom have been replaced by two methyl groups respectively.
- Metabolite observed in cancer metabolism has a role as a human metabolite. It is a member of acetamides and a monocarboxylic acid amide. It derives from an acetamide.



- Para-nitro anisole.  
4-nitro anisole  
CAS# 100-17-4  
Chemical Formula  $\text{C}_7\text{H}_7\text{NO}_3$

OEHHA is proposing the listings via the “Labor Code” listing mechanism to make the additions, which are based

The public comment period for the on the proposed listings will be open through August 1, August 12, 2019.

OEHHA notes that this is a “ministerial listing” process, and it cannot consider scientific arguments concerning the weight or quality of evidence considered by IARC. “Comments should be limited to whether IARC has identified the specific chemical or substance as a known or potential human or animal carcinogen,” the agency said in its July 12 regulatory notice.

# Protected: OEHHA Abandons Changes to Prop 65 Reprotox Calculation

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# Protected: Residential Rental Regulation Burdens Managers

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# 11 Attorneys General Sue EPA for Failing to regulate Asbestos.

By LisaLisa | OEHHA To List six new Chemicals and Finalize New Regulations



*Democratic Caucus Chairman Xavier Becerra*

California Attorney General Xavier Becerra and Massachusetts Attorney General Maura Healey, are leading a coalition of 11 attorneys general, that have filed a lawsuit challenging the U.S. Environmental Protection Agency's (EPA) failure to initiate rulemaking to regulate asbestos. The attorneys general had previously petitioned the EPA to create a new rule requiring data collection on the importation and use of asbestos-one of the world's most toxic substances.

"It is widely acknowledged that asbestos is one of the most harmful and toxic chemicals known to humankind," **said Attorney General Becerra.** "While it's troubling that we must once again take the EPA to court to force the agency to do its job, we won't pull any punches. There's too much at stake to let the EPA ignore the danger that deadly asbestos poses to our communities, including to workers and children."

Asbestos - a carcinogen that takes 15,000 lives per year - is linked to diseases that are life-threatening or cause substantial pain and suffering, including mesothelioma, fibrosis, lung cancer, gastrointestinal cancer, and other lung disorders and diseases. There is no safe level of exposure to this highly toxic material. Currently, the EPA does not possess and is not collecting, the necessary comprehensive data about the importation, processing, and use of asbestos and asbestos-containing articles in the U.S.

In January 2019, the coalition of state attorneys general petitioned the EPA pursuant to the Toxic Substances Control Act (TSCA) to create a new set of regulations within the TSCA's Chemical Data Reporting rule. This rule is intended to provide data on the importation and use of chemicals, including asbestos. The Attorneys General contend that robust reporting of the distribution and use of asbestos and asbestos-containing articles is necessary to provide the EPA with the data it needs to fulfill its obligations under TSCA. The TSCA requires the agency to evaluate and address the risks posed by toxic chemicals like asbestos. Further, the new rule would have helped ensure that EPA's regulatory decisions regarding asbestos are consistent with the best available science, and the data resulting from the requested regulations would provide the states with important information that is not currently collected.

The EPA denied the states' petition in late April. In their lawsuit challenging EPA's denial of the petition, the coalition argues that the rulemaking they requested is necessary under TSCA. The lawsuit further charges

that the denial of the petition was arbitrary and capricious and violates the agency’s obligations under TSCA. Specifically, the Attorneys General ask the court to compel EPA Administrator Andrew Wheeler to initiate rulemaking and issue a new asbestos reporting rule to:

- Eliminate “naturally occurring substance” as an exemption for asbestos reporting;
- Require processors of asbestos, as well as manufacturers, including importers, of the chemical substance to adhere to reporting requirements;
- Ensure that the impurities exemption in the Chemical Data Reporting rule does not apply to asbestos; and
- Require reporting with respect to imported articles that contain asbestos.

Joining Attorney General Becerra and Attorney General Healey in filing the lawsuit are the Attorneys General of Connecticut, Hawaii, Maine, Maryland, Minnesota, New Jersey, Oregon, Washington, and the District of Columbia.

A copy of the complaint can be found [here](#).



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# Prop 65 Notices Served on Leather Goods

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Six 60-day notices of violation were recently issued for hexavalent chromium detected in leather goods. The notices serve as warnings of the intent to start legal proceedings, that may end up in California Courts or settle out of court, depending on the products and chemicals involved, and the noticing Prop 65 enforcer.



Hexavalent chromium (Cr (VI)) was listed in 1987 under California Proposition 65 (Prop 65) as a toxic chemical that causes birth defects and other reproductive problems and cancer.

The six Notices of Violation were issued because of consumer exposure to Cr (VI) in a variety of leather products used in gloves for work and gardening, driving and fashion, golf and sports.

Humans can be exposed to Cr (VI) through hand to mouth contact after touching, wearing, or handling the leather products. Exposure can also be possible through dermal absorption. Health problems associated with exposure to Cr (VI) include allergies, throat, nasal, or respiratory irritation.

Cr (VI) is often unintentionally formed as an unwanted tanning process by-product in leather manufacturing, while in storage and shipment of leather products.

The Safe Drinking Water and Toxic Enforcement Act of 1986 or California Proposition 65 (Prop 65), became law in November 1986. The law is the basis why there is a Prop 65 list of approximately 900 harmful substances.

Businesses based in California are required to provide a Prop 65 Warning or a clear and reasonable warning on products that can expose anyone to a substance above its specified safe level.

Hexavalent chromium is typically used in machining metal parts in aircraft and anodizing other components that require chrome plating applications.

The presence of hexavalent chromium in leather processing is unusual. Hexavalent chromium was prominently featured in the 2000 movie "Erin Brockovich" featuring Julia Roberts as the loudmouth Paralegal who found evidence of the chemical in the water of the desert town of Hinkley California.