

Air Quality Update

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CALIFORNIA PROPOSITION 65 UPDATED CLEAR AND REASONABLE WARNING REQUIREMENTS


California Code of Regulations Title 27, §25600, et seq. (2016)

On August 30, 2016, California's Office of Environmental Health Hazard Assessment (OEHHA) approved modifications to the "clear and reasonable warning" requirements under California's "right-to-know" regulation, Proposition 65 (Prop 65). Until August 30, 2018, companies may follow any combination of the prior or the modified version of the regulation; after August 30, 2018, companies must comply with the revised regulation. The modified regulation changes the standards and responsibilities for providing warnings under Prop 65, but not whether a warning is required, so only businesses already required to provide Prop 65 notifications are expected to be impacted by the changes.

Under Prop 65, businesses with 10 or more employees must provide "clear and reasonable warning" to individuals they expose to carcinogens or reproductive toxics, at amounts exceeding OEHHA's established No Significant Risk Level (NSRL) for carcinogens or Maximum Allowable Dose Level (MADL) for reproductive toxics. Exposure can be from the use or consumption of a Consumer Product and/or an

Environmental Exposure from chemicals present in the air or water.

OEHHA promulgated "safe harbor" warning methods for providing Prop 65 notifications, which offer businesses a minimum standard for warnings, such that there is a reasonable certainty the warnings will not result in enforcement action. However, businesses have the option of providing notifications using any other methods that meet the "clear and reasonable" standards of the regulation, without the safe harbor protections. As part of the 2016 rule modification, the safe harbor warning standards have been amended with more stringent requirements, which include:

- Identify by name at least one chemical requiring warning, for each endpoint (cancer and/or reproductive toxic);
- Identify the *source* of the chemical named in the warning;
- Include website: www.P65Warnings.ca.gov;
- Include "Warning Symbol": ;
- "Contains" has been replaced with "can expose you to";
- Post at all public entrances to the affected area, in at least 72-point type;
- "Clearly identify" the area for which a warning is being provided;
- Provide in English and "in any other language used in signage in the affected area"; and

- Include specific language for exposure to categories of certain exposure types, including diesel exhaust, petroleum products, and smoking areas (categories listed in §25607).

Revised rule language is available for review at: <http://oehha.ca.gov/proposition-65>

Air Quality Tip

For good compliance, look to your air permit conditions. There will be four areas of potential conditions to pay attention to: monitoring/testing, record-keeping, throughput or limits, and rule requirements. Be sure to check the current rules. Changes to the rules can affect the compliance requirements.

Upcoming Training Offered by Yorke Engineering

- San Joaquin Valley Air Quality Regulations, Permitting, and Compliance Seminar: March 28 – March 29, 2017
<http://www.yorkeengr.com/AirQualityClasses.htm>

Upcoming Due Dates for 2017*

- CARB On-Road Heavy-Duty DV** Reporting for Flexibility Options 1/31
- CARB In-Use Off-Road DV** Annual Reporting for Medium/Large Fleets 3/1
- CARB PERP Equipment Units Annual Report 3/1
- CARB Refrigerant Reporting for Medium/Large Systems (≥ 200 lbs.) 3/1
- USEPA GHG Report 3/31
- CARB GHG > 25K Metric Tons 4/10
- CARB GHG 10-25K Metric Tons and All Electric Retailers 6/1
- CARB GHG SF₆ Switchgear 6/1
- Semi-Annual Title V Report Semi-Annually
- Annual Title V Compliance Certification Annually
- Title V – Application for Permit Renewal – Due 180 Days Prior to Permit Expiration

**All due dates listed are the statutory dates; sometimes dates are extended when they fall on a weekend/holiday.*

***Diesel Vehicle*

Example Prop 65 Safe Harbor Warning Before August 30, 2018:

WARNING: This area contains a chemical known to the State of California to cause cancer.



Example Prop 65 Safe Harbor Warning After August 30, 2018:

WARNING: Entering this area can expose you to chemicals known to the State of California to cause cancer, including asbestos, from construction debris. For more information, go to www.P65Warnings.ca.gov.

SJVAPCD MOBILE SOURCE INCENTIVES/FUNDING

With the ever-changing standards and regulatory requirements for both on-road and off-road equipment, facilities must often plan, prioritize, and sometimes budget to maintain compliance. The San Joaquin Valley Air Pollution Control District (SJVAPCD) has several funding programs available to alleviate the burden of complying with the requirements.

Forklift Program

The Forklift Program provides funding for new electric forklift purchases up to 30% of the cost, as well as large spark-ignited forklift retrofits up to 100% of the cost. To be eligible for funding, 75% of the annual hours of operation must be within California, and 50% of the annual hours of operation must be within the SJVAPCD. In addition, for new electric forklift purchases, the unit must be greater than 19 kilowatts and a Class 1, lift code 4, 5, or 6. For existing forklift purchases, the unit must be greater than 25 horsepower (hp) and a Class 4, 5, or 6. Approval and a signed, executed contract from the SJVAPCD will need to be obtained prior to purchase of new equipment. Since this is not a rebate program, any equipment purchased prior to contract execution is ineligible for funding. An application form is available at: <http://valleyair.org/grants/documents/forklift/Electric-Forklift-New-Purchase-Application.pdf>

Agricultural Tractor Replacement Program

The SJVAPCD Agricultural Off-Road Tractor/Equipment Replacement Program provides funding for the replacement of in-use, off-road mobile equipment units that are engaged in agricultural operations as defined by the California Air Resources Board (CARB). Eligible tractor/equipment units include wheel loaders, balers, combines, graders, or tractors. This program is available for the purchase of replacement

units that are not currently under contract to receive funding from any other local, state, or federal agencies.

To be eligible for funding, the unit must be self-propelled, currently in use, and in operational condition, the unit must have an uncontrolled (Tier 0), Tier 1, or Tier 2 engine with 25 hp or greater rating, 75% of the annual hours of operation must be within California, and 50% of the annual hours of operation must be within the SJVAPCD. The new replacement unit must serve the same function and perform the same work equivalent as the unit being replaced, and it must have a current model emissions engine (Tier 3, Tier 4i, or cleaner, depending on hp and eligibility).

Rating	SJVAPCD Incentive
Wheel Loaders	
All Horsepower	\$450/hp
All Other Tractors and Equipment	
25-109 hp	\$200/hp
110-149 hp	\$250/hp
150+ hp	\$350/hp

Approval and a signed, executed contract from the SJVAPCD will need to be obtained prior to purchase of new equipment. Since this is not a rebate program, any equipment purchased prior to contract execution is ineligible for funding. An application form is available at:

<http://valleyair.org/grants/documents/tractor/Ag-Off-Road-Repalcement-App.pdf>

Class 5 and 6 Truck Replacement Program

The Class 5 and 6 Truck Replacement Program provides funding for replacement of old, high-polluting, Class 5 and 6 diesel trucks. Applications are only

available at SJVAPCD-certified dealerships listed under the following link: <http://valleyair.org/grants/documents/onroad-trucks/Dealer-List.pdf>

To be eligible for funding, the applicant must meet the following requirements:

- Meet the definition of a “Small Business”;
- Have owned and operated the truck for the past 24 months;
- 75% of the annual hours of operation are within California, and 50% of the annual hours of operation are within the SJVAPCD; and
- Be in compliance with the Truck and Bus Regulation.

The funding is available for old trucks with a Gross Vehicle Weight Rating (GVWR) of 16,001 to 26,000 pounds with a 1991-2003 diesel engine. The new replacement truck must be in the same weight class (Class 5 or Class 6) as the old truck, be of similar type, and perform similar functions as the old truck. In addition, the new replacement truck must be powered by a 2013 or newer model year on-road engine certified by CARB to meet or exceed the current emissions standard of 0.20 grams per brake-horsepower hour (g/bhp-hr) nitrogen oxide (NO_x) family emission limit (FEL) and 0.01 g/bhp-hr of particulate matter (PM), as verified by CARB’s Engine Family Executive Order. Once funding is approved, a voucher will be issued. Any truck purchased before receiving a voucher is ineligible for funding.

The program guideline is available at: <http://valleyair.org/grants/documents/onroad-trucks/Class-5-6-Guidelines.pdf>

Yorke Engineering, LLC specializes in air quality and environmental consulting for stationary and mobile sources, including dispersion modeling, health risk assessments, permitting, emission inventories, air quality compliance systems, etc. Yorke Engineering has assisted over 600 customers, including a wide variety of industrial facilities and government organizations throughout California.