CONSUMER GOODS • CALIFORNIA COMPLIANCE

Prop 65 Compliance

for Plastic Drinkware

3

CHEMICAL FAMILIES

in active Prop 65 enforcement for plastic drinkware

"BPA-Free" ≠ "Chemical-Free"

Plastic drinkware faces a multi-chemical risk stack — bisphenols, phthalates, and lead contamination — under both Prop 65 warning requirements and an expanding multi-state regulatory landscape.

The Regulatory Landscape

Plastic drinkware sits at the intersection of three enforcement regimes

PROP 65 WARNINGS

California — 1986

Clear & reasonable warnings for listed chemicals

BPA was listed as a reproductive toxicant in May 2015. DEHP, DBP, DINP, DIDP, BBP, and DnHP are all Prop 65-listed phthalates. Lead has been listed since 1987 for both cancer and reproductive harm.

27 CCR §§ 25600–25607.49

CITIZEN ENFORCEMENT

3,000+ NOVs / year

Private right of action drives most enforcement

Citizen plaintiffs issued 260+ Notices of Violation in a single month (May 2022) targeting phthalates and BPA in plastic consumer products. Settlements routinely include penalties, attorney fees, and reformulation injunctions.

Cal. Health & Safety Code § 25249.7(d)

MARKETPLACE ENFORCEMENT

Amazon / Retailer

Platform-level compliance obligations

Amazon suspends ASINs on Prop 65 complaints pending ISO-certified lab reports. Major retailers mandate verifiable chemical safety and reject non-compliant POs at supplier expense. De-facto compliance enforcement has moved upstream.

Private marketplace terms

Compliance is not a single rulebook — it's a pattern of overlapping risks.

A brand that clears Prop 65 may still fail Amazon's chemical safety policy. A brand that passes retailer spot-checks may still draw a citizen-plaintiff NOV. Drinkware compliance requires simultaneous alignment across all three.

Enforcement Trends

What's driving Prop 65 activity in plastic drinkware

260+

NOVs in a single month

Phthalates & BPA dominate plastic-product notices

May 2022 alone saw 260+ Notices of Violation, with phthalates (DEHP, DINP, DBP) and BPA in plastic products and components cited as one of the three largest claim categories alongside heavy metals in foods.

$750M

Stanley brand revenue (2023)

High-volume viral categories draw plaintiff attention

Stanley tumbler sales grew 10× to $750M in 2023 — and by February 2024, the brand was named in consolidated lead-disclosure class actions across four states. Virality + drinkware chemistry = enforcement magnet.

BISPHENOLS

BPA: MADL 3 µg/day (dermal)

BPA listed since 2015 as reproductive toxicant. BPS and broader p,p'-bisphenol class listing under review (Nov 2025) — would expand warnings to polycarbonate bottles, can linings, and thermal paper dramatically.

PHTHALATES

6 listed phthalates

DEHP, DBP, BBP, DINP, DIDP, DnHP all carry Prop 65 status. Used as plasticizers in flexible lids, straws, spouts, and bottle sleeves. Settlements often require reformulation for all six even when only one is detected.

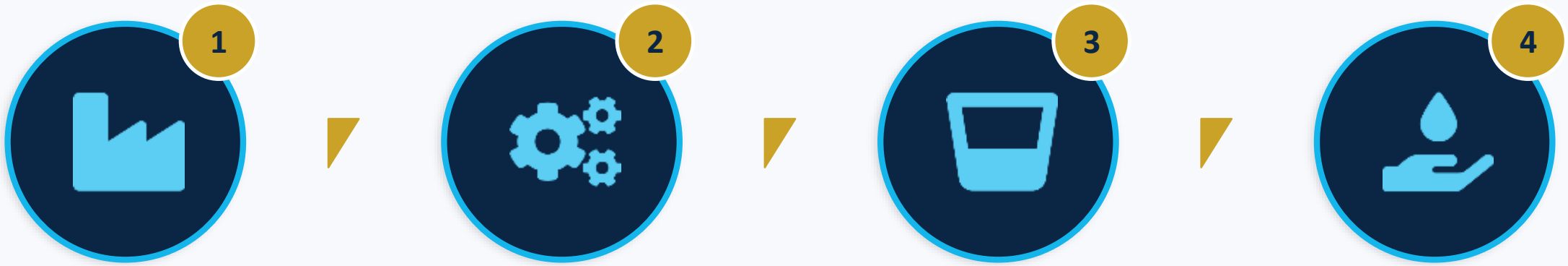
LEAD

MADL 0.5 µg/day

Can appear in vacuum-seal pellets, solder points, paint/decoration, and imported components. 2024 viral-tumbler disclosures triggered class actions across CA, NV, NY, WA — even where lead was technically inaccessible.

The Exposure Pathway

Where listed chemicals enter plastic drinkware — and reach the consumer



RESIN & COMPOUND

Polycarbonate, PET, PVC, ABS — each carries a distinct chemical fingerprint (BPA, DEHP, Sb, etc.).

MOLDING & ASSEMBLY

Plasticizer migration, color pigments, solder in metal components, vacuum-seal alloys.

FINISHED PRODUCT

Any intentional inclusion of a listed chemical above the MADL/NSRL triggers the warning obligation.

IN-USE EXPOSURE

Hot liquid, dishwasher cycles, UV, and wear accelerate chemical leaching into beverages.

Every pathway stage is a compliance control point.

Resin specification, component certification, finished-product testing, and in-use scenario modeling each generate independent evidence. A defensible no-warning determination requires documented controls at all four — relying on supplier claims alone is the most common failure mode in this category.

The Qualified Individual (QI)

Every compliance determination requires a documented, signed-off owner

QUALIFIED INDIVIDUAL

Owns the no-warning determination

Designated in writing. Signs the dated determination record. Re-certifies on formulation, supplier, or process change.

Minimum competency profile

- Working knowledge of Cal. H&S Code § 25249.5 et seq. and 27 CCR §§ 25600–25607.49
- Familiarity with OEHHA listed chemicals, MADL, and NSRL safe-harbor levels
- Ability to interpret migration-test results, CoAs, and supplier chemical disclosures
- Understanding of reasoned-estimate exposure methodology under 27 CCR § 25821
- Authority to halt shipment, require re-testing, or mandate warning application

WRITTEN DESIGNATION

QI is designated in a dated, signed document naming specific product scope and authority.

DETERMINATION RECORD

Every no-warning call is captured in a dated record citing evidence, methodology, and conclusion.

EVIDENCE INDEX

CoAs, migration studies, supplier declarations, and exposure calcs are cross-referenced in a single file.

REASSESSMENT TRIGGERS

New OEHHA listing, formulation change, supplier change, or complaint each re-opens the determination.

Chemical Screening

Matching product formulation against the OEHHA Prop 65 list

Screening Matrix — 4 Input Streams

Every candidate chemical is mapped against all four. Gaps = unverified formulation.

Resin Technical Data

Base polymer monomers and residuals — BPA in polycarbonate, antimony in PET, phthalates in flexible PVC.

Additive Register

Plasticizers, pigments, stabilizers, slip agents — each component's CoA and chemical identity.

Component Disclosures

Lid seals, straws, handle grips, decoration inks, and metal inserts — every sub-assembly screened.

Migration / Leach Testing

Third-party results against hot/cold/acidic/fatty food simulants under intended-use conditions.

900+

CHEMICALS ON THE OEHHA LIST

Drinkware-relevant categories:

- Bisphenols — BPA listed 2015; BPS/class under review 2025
- Phthalates — 6 listed (DEHP, DBP, BBP, DINP, DIDP, DnHP)
- Heavy metals — lead, cadmium, chromium VI, antimony
- Residual monomers — vinyl chloride, styrene, acrylamide
- Pigments & coatings — carbon black, formaldehyde resins, PFAS

Safe Harbor Framework

Comparing estimated exposure against OEHHA-established thresholds

NSRL — NO SIGNIFICANT RISK LEVEL

For carcinogens

Daily exposure at which lifetime cancer risk ≤ 1 in 100,000. Lead NSRL: 15 µg/day (cancer endpoint). Used when a carcinogenic endpoint is the listing basis.

MADL — MAXIMUM ALLOWABLE DOSE LEVEL

For reproductive toxicants

Daily exposure level that produces no observable reproductive effect × 1/1,000 safety factor. BPA MADL: 3 µg/day (dermal, solids). Lead MADL: 0.5 µg/day.

Margin of Compliance (MoC) Banding — internal decision framework

GREEN	AMBER	ORANGE	RED
MoC ≥ 10×	**1× ≤ MoC < 10×**	**0.5× ≤ MoC < 1×**	**MoC < 0.5×**
No warning + retain evidence	Re-test + monitor; add warning if trending up	Apply warning + initiate reformulation review	Halt shipment + immediate reformulation

The MoC banding converts a binary warning decision into a graduated risk framework.

Green items generate defensible no-warning records. Amber and Orange trigger proactive controls before enforcement risk materializes. Red closes the loop with immediate corrective action — and a documented trail that satisfies citizen-enforcer discovery.

Exposure Assessment Methodology

Reasoned-estimate framework under 27 CCR § 25821

INPUT VARIABLES

What feeds the reasoned estimate for drinkware

1

Use-scenario modeling

Hot beverage (≤85°C), cold beverage, dishwasher cycle count, lifetime use hours.

2

Migration / leach test results

Targeted analyte concentrations from third-party testing against relevant simulants.

3

Beverage contact geometry

Surface area exposed / volume ratio, contact duration, refill frequency.

4

Population exposure factors

Average daily consumption volume, body weight assumptions, exposure frequency.

TESTING SCOPE

What a defensible drinkware panel includes

- Total bisphenol panel — BPA, BPS, BPF in material and migrate
- Phthalate screen — all six Prop 65-listed phthalates (ppm)
- Heavy metals by ICP-MS — Pb, Cd, Cr-VI, Sb, As, Ni
- Migration testing per CPSC/FDA simulants (water, 3% acetic acid, 10% ethanol, olive oil)

REASONED ESTIMATE ≠ WORST-CASE

OEHHA permits reasoned, science-based exposure estimates — not hypothetical "what-if" scenarios. Each assumption must be documented with its source (peer-reviewed literature, federal guideline, test-method standard) and justified as representative of actual consumer use.

Beyond California

The multi-state regulatory expansion reaching plastic drinkware

CA	WA	NY	ME	MN	VT
California	**Washington**	**New York**	**Maine**	**Minnesota**	**Vermont**
Active	*2024+*	*2025+*	*2026+*	*2025*	*2027+*
Prop 65 warnings; AG enforcement + citizen actions.	Safer Products for WA — BPA, phthalates priority.	Household cleansing & children's products chemical bans.	Comprehensive PFAS disclosure for consumer products.	PFAS restrictions extending to food-contact items.	Phased bans on intentionally added PFAS in durable goods.

A California-only compliance program is no longer a complete program.

Drinkware brands selling nationally are subject to a rolling, non-uniform chemical-disclosure regime. A single product may require California warnings, Washington reporting, Maine PFAS disclosure, and Minnesota reformulation simultaneously.

UNIFIED DISCLOSURE

Build the declaration file against the most stringent requirement (typically CA Prop 65 or ME PFAS), then map downward to state-specific warning labels and reports.

HARMONIZED REFORMULATION

Where chemistry permits, reformulate once to the most restrictive threshold rather than maintaining multiple regional SKUs. Reduces carrying cost and audit surface area.

Supplier & Supply-Chain Controls

Where most drinkware compliance failures actually originate

1

TIER 1 — Contract Manufacturers

Full formulation disclosure; signed Prop 65 declaration; annual re-qualification; on-site audit right.

2

TIER 2 — Resin & Masterbatch Suppliers

CoA per lot; complete additive register; residual monomer data; bisphenol-free certification if claimed.

3

TIER 3 — Component & Accessory Vendors

Lids, straws, seals, gaskets, decoration inks — each with material chemistry + migration data.

4

TIER 4 — Decorators & Post-Processors

Inks, coatings, laser etching residues; screen printing solvents; adhesive composition disclosures.

CONTRACTUAL INDEMNITY

Shifting liability upstream — while keeping the audit trail

Courts generally hold the entity closest to the defect responsible. Indemnity language should name specific Prop 65 warranty obligations, require suppliers to bear defense costs in NOV actions, and preserve the brand's right to terminate on first material non-conformance.

SUPPLIER RISK-RATING INPUTS

Five dimensions scored per supplier, per qualification cycle:

- Chemistry transparency — completeness of formulation disclosure
- Testing frequency & accreditation — ISO 17025 labs preferred
- Geographic origin — import chemistry risk profile
- NOV / recall history — prior enforcement against the supplier
- Responsiveness — lead time on incident data requests

Case Study — the Stanley Precedent

What the 2024 tumbler lawsuits tell us about drinkware disclosure risk

THE FACT PATTERN

Pacific Market International (PMI) — 2024 viral-tumbler class actions

Jan 2024

TikTok influencers test Stanley tumbler bases with at-home kits and detect lead. PMI publicly acknowledges that its vacuum-seal pellet contains lead — covered by a stainless steel cap.

Feb 2024

Four California consumers file a proposed class action (Brown v. PMI). Suit alleges PMI marketed products as 'BPA-free' without disclosing lead presence — deceptive omission theory.

Jun 2024

Consolidated complaint adds plaintiffs from NV, NY, and WA. Plaintiffs seek refunds, injunctive relief, and punitive damages.

Jan 2025

Federal court (W.D. Wash.) dismisses complaint on sufficiency grounds — plaintiffs failed to plead specific lead levels causing cognizable harm. Leave to amend granted.

LESSON 1

Disclosure-by-default

The reputational cost of late disclosure exceeded the potential cost of early warning. 'BPA-free' absent full chemistry = litigation exposure.

LESSON 2

Inaccessibility ≠ immunity

PMI's defense that lead was behind a steel cap worked on pleading sufficiency — but didn't prevent the class filing, the publicity, or the multi-state consolidation.

LESSON 3

Viral = target

Category virality drew both citizen plaintiffs and plaintiff-bar attention. Drinkware's social-media surface area compounds compliance exposure.

Warning Content & Format

When a warning is required — what must appear, and how

SAFE-HARBOR WARNING TEMPLATE

Short-form on-product warning (27 CCR § 25602(a)(4))

WARNING:

Cancer and Reproductive Harm — www.P65Warnings.ca.gov

FORMAT REQUIREMENTS

- Symbol must be yellow/orange triangle with black '!' (or black & white if product is black/white only)
- 'WARNING' in bold, all caps, at least as large as surrounding consumer information
- Short-form permitted on products ≤ 5 in²; long-form required for larger products or when a chemical must be named
- Must appear on product label, signage, or equivalent point-of-sale disclosure

WHEN TO NAME THE CHEMICAL

Long-form warning is required when:

- Product area exceeds 5 square inches and space allows full text
- Settlement agreement or consent judgment requires specific chemical naming
- Brand strategy prioritizes transparency over minimal-disclosure posture

WARNING:

This product can expose you to chemicals including bisphenol A (BPA), which is known to the State of California to cause birth defects or other reproductive harm. For more information go to www.P65Warnings.ca.gov.

Documentation Architecture

The artifact set that makes a no-warning determination defensible

Chemical List Master Register

Product-by-product index of every intentionally added chemical, with CAS number and Prop 65 status flag.

Ingredient vs. Prop 65 Screening Log

Lot-level screen of formulation against the current OEHHA list; flags triggered for QI review.

Migration & Leach Test File

Third-party lab reports, simulants used, detection limits, and analytical methodology per SKU.

No-Warning Justification File

QI-signed determination record with exposure calculations, MoC banding, and supporting evidence cross-references.

Supplier Declaration Archive

Signed supplier Prop 65 statements, indemnity clauses, risk-rating scores, re-qualification dates.

Warning Determination & Change Log

Dated record of warning decisions, formulation changes, and reassessment triggers — full audit trail.

All six artifacts maintained under the same document-control SOP, with dated revisions, distribution lists, and QI sign-off at every change.

Monitoring & Reassessment

A no-warning determination is a dated snapshot — not a permanent state

REASSESSMENT TRIGGERS

- New OEHHA chemical listing (annual updates)
- Formulation change — any additive, pigment, or resin
- Supplier change — even for identical-spec materials
- Process change — temperature, dwell time, mold
- Consumer complaint alleging chemical exposure
- NOV received, settled, or issued against peers

MONITORING FREQUENCY

- Quarterly — review of OEHHA list additions
- Per-lot — CoA review for resin & masterbatch
- Annual — full migration/leach re-testing
- Bi-annual — supplier re-qualification & audit
- Per-change — QI sign-off on any formulation mod
- Event-driven — NOV, complaint, or market signal

RESPONSE ACTIONS

- Re-run exposure calculation against new data
- Update MoC band and associated control posture
- Issue revised warning or continue no-warning
- Notify distribution channel if warning changes
- Re-train operations on new chemistry or controls
- Log reassessment event in determination file

Consumer Complaint Handling

Complaints are often the first signal of an NOV in preparation

1 INTAKE

Standardized form captures product lot, date of purchase, channel, complaint specifics, and user contact info.

2 TRIAGE

Classify by severity and chemical nexus within 24 hours. Escalate any exposure-related claim to QI immediately.

3 INVESTIGATE

Pull lot records, CoA, retained samples. Commission targeted chemical testing if the complaint references a listed chemical.

4 RESPOND

Documented response to complainant within defined SLA. Preserve all correspondence for potential litigation discovery.

5 CLOSE & LEARN

Root-cause analysis, CAPA if warranted, feed findings into the reassessment cycle. Update risk log.

A well-documented complaint process is the best affirmative defense.

Citizen-enforcer NOV actions routinely subpoena complaint logs. A consistent, dated, response-tracked process demonstrates good-faith compliance posture — often materially reducing settlement exposure even in otherwise-adverse cases.

Training & Organizational Readiness

Compliance is a capability, not a document — people make it work

Qualified Individual

- Full competency profile (slide 5)
- Annual continuing education ≥ 16 hrs
- Role-specific authority documented

Operations & Production

- Awareness of listed chemicals in scope
- Escalation path for formulation changes
- Understanding of warning-application procedures

Procurement & Supply Chain

- Supplier qualification criteria
- Indemnity & declaration language
- Risk-rating input roles

Quality & Lab

- Migration-test methodology & simulant selection
- Reasoned-estimate calculation inputs
- Record-keeping & chain-of-custody

Regulatory & Legal

- Current Prop 65 list & safe-harbor regulations
- NOV handling & settlement patterns
- Multi-state disclosure landscape

Customer Service

- Complaint intake & triage SOP
- Escalation criteria to QI
- Correspondence preservation protocol

Economics of Compliance vs. Non-Compliance

The cost framework that drives internal prioritization

COST COMPARISON — per SKU, per year

CATEGORY	PROACTIVE PROGRAM	REACTIVE / NOV
Testing & screening	$3–8K / yr	$15–40K emergency
Legal & advisory	$2–5K / yr	$25–150K defense
Settlement / penalty	$0	$50K–$500K+ typical
Reformulation cost	Planned	Rush: 2–4× normal
Channel disruption	None	ASIN suspension, retailer POs rejected
Reputational impact	None	Viral risk on social media

10–20×

TYPICAL COST DELTA

Reactive response to a Prop 65 NOV typically costs 10–20× a proactive compliance program for the same SKU portfolio.

And this excludes:

- Class-action exposure
- Attorney General action
- Brand reputation damage
- Retailer-relationship cost
- Management time diverted

WHAT THE LIBRARY DELIVERS

Professional compliance templates — day one.

- Word-native .docx templates with Navy / Cyan / Gold brand system
- Every template includes QI approval notice at five canonical placements
- Customization notice: 'this template must be customized for its intended process and approved prior to use and implementation'
- Referential to specific CFR sections, 27 CCR provisions, and OEHHA materials
- Cross-mapped to GFSI, ISO, and FSMA schemes where applicable

DRINKWARE TEMPLATE SUITE

Naming convention: SBP-P65-DRINK-xxx

SBP-P65-DRINK-CLMR-001	Chemical List Master Register
SBP-P65-DRINK-SCRN-002	Ingredient vs. Prop 65 Screening Log
SBP-P65-DRINK-MIG-003	Migration & Leach Test File
SBP-P65-DRINK-NWJ-004	No-Warning Justification File
SBP-P65-DRINK-SUP-005	Supplier Declaration & Risk Rating
SBP-P65-DRINK-WDL-006	Warning Determination & Change Log
SBP-P65-DRINK-CMPL-007	Consumer Complaint Log & SOP
SBP-P65-DRINK-TRN-008	Training & Competency Assessment

Four converging forces on one product category

CONSUMER GOODS

Fastest-growing regulation

Consumer product chemical regulation is expanding faster than any other compliance domain. Drinkware sits squarely in scope for Prop 65, AB 1200 analogues, and state-level PFAS & phthalate regimes.

MULTI-CHEMICAL RISK

Top litigation driver

Plastic drinkware's formulation complexity — bisphenols, phthalates, heavy metals, residual monomers — means multiple independent enforcement pathways can target the same SKU simultaneously.

PLASTIC DRINKWARE

Product-specific risk

Direct beverage contact + hot/cold cycling + consumer intimacy (daily, personal use) makes drinkware one of the highest-exposure categories for any chemical in its formulation.

CALIFORNIA + 11 STATES

Strict environment

California's Prop 65 is joined by Washington, Maine, Minnesota, Vermont, and others. A single SKU now faces a rolling, non-uniform disclosure calendar across 2025–2028.