

PROPOSITION 65 WARNING REGULATIONS: Summary of Pre-Regulatory Proposal

March 7, 2014

On May 7, 2013, the Governor released a proposal to reform Proposition 65 to reduce unnecessary litigation and “require more useful information to the public on what they are being exposed to and how they can protect themselves.” The purpose of this pre-regulatory proposal is to improve the quality of Proposition 65 warnings while providing both flexibility and certainty for businesses. Other elements of the governor’s proposed reforms will require legislation. This proposal takes into account comments received at the public workshop on warning regulations on July 30, 2013, as well as other comments received to date.

The proposal would establish 3-5 minimum required elements for warnings:

1. Use of the signal word “WARNING”;
2. Use of the word “expose” to be consistent with the language in the statute;
3. The standard (Globally Harmonized System) pictogram  for toxic hazards (only for consumer products other than foods, occupational and environmental warnings);
4. Disclosure of the names of up to 12 commonly-known chemicals that require warnings, such as lead and mercury, in the text of the warning;
5. A link to a new OEHHA website to allow the public to access more information relating to the warning, including additional chemicals, routes of exposure, and if applicable, any actions that individuals could take to reduce or avoid the exposure.

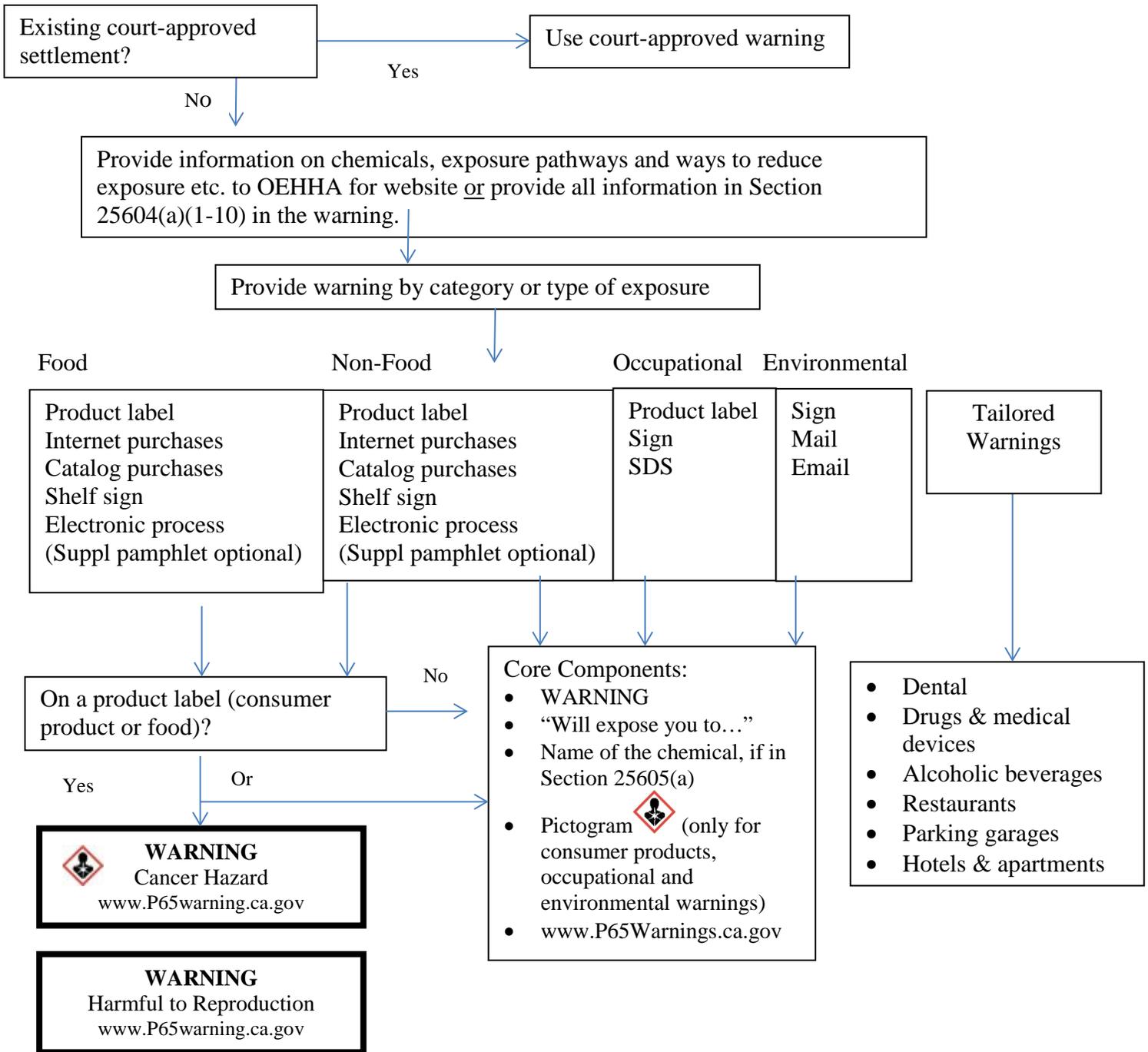
The proposal would provide the public with better information and business with more regulatory certainty, clarity and additional warning options:

- Provides an opportunity for small retailers (25 or fewer employees) to cure certain minor warning violations within 14 days and avoid any private enforcement whatsoever.
- Incorporates alternatives such as email (for environmental exposures), as well as automated processes that may be developed in the future, while maintaining existing options such as on-product warnings and signs.
- Includes tailored language for specific warning contexts (e.g. alcohol, drugs, medical devices, parking garages, hotels, apartments, and theme parks).
- Businesses may propose tailored warning methods and content for specific chemicals or exposure scenarios for adoption into regulations.
- Recognizes warnings covered by existing court-approved settlements.

Next Steps:

- Hold pre-regulatory public workshop on April 14, 2014
- Propose formal regulation in early summer 2014
- Adopt final regulation in early summer 2015
- Develop website concurrent with regulatory process

How it Works:



Notes: No pictograms on food; only on other products, occupational, and environmental warnings. Chemical does not need to be named on the label warnings unless it is identified in Section 25605(a).