



California Council for Environmental and Economic Balance

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April 8, 2015

Monet Vela
Office of Environmental Health Hazard Assessment
P.O. Box 4010
1001 I Street
Sacramento, CA 95812-4010

Via Electronic Transmission: P65Public.comments@oehha.ca.gov

RE: Proposed Proposition 65 Website Regulation

Dear Ms. Vela,

On behalf of the members of the California Council for Environmental and Economic Balance (CCEEB), we wish to offer our comments and concerns regarding the proposed Proposition 65 Website regulation. CCEEB is a coalition of business, labor, and public leaders that works together to advance strategies to achieve a sound economy and a healthy environment. Founded in 1973, CCEEB is a non-profit and non-partisan organization.

While CCEEB greatly appreciates OEHHA's consideration of concerns raised about the proposed lead agency website regulation being incorporated within the warning regulations and in turn proposing them as a separate, standalone regulatory proposal, there are numerous flaws remaining in the proposed regulation under Section 25205.

Most notable, in addition to allowing OEHHA to compile its own information to be included in the website for public consideration, the proposed regulation provide OEHHA the authority to require manufacturers, importers and distributors of products bearing a Proposition 65 warning with a host of complicated and highly technical information regarding the warnings utilized. The information may include everything from the identities of the chemicals in the product necessitating a warning to the location or components of a product to the concentration of the chemicals in the product to "any other information the lead agency deems necessary."

To be clear, Proposition 65 does not provide the authority to OEHHA to require such entities to provide it with such supplemental information. Proposition 65 only requires businesses to provide a "clear and reasonable" warning before knowingly exposing individual to Proposition 65 listed chemicals. In this regard, OEHHA lacks the authority to require or compel additional information to be provided under the current provisions of Proposition 65.

OEHHA instead can provide the option to businesses to provide such supplemental information for the purpose of posting such information on its website under Section 25600(d). In doing so, providing supplemental information provided to OEHHA would be permissive only and therefore Section 25600(b) of the website regulation is unnecessary and should be deleted in its entirety.

Even as the authority of OEHHA is clearly in question, the website proposal will not assist consumers as intended, but rather become a detailed roadmap for new litigation by enterprising plaintiffs' attorneys.

For these reasons, we urge OEHHA to rework the Lead Agency Website Regulation to recognize OEHHA's lack of authority to compel businesses to provide detailed, supplemental information regarding their products' relevance for Proposition 65 warnings. Thank you for the opportunity to comment. Should you have further questions, please contact CCEEB project manager Dawn Koepke at dkoepke@mchughgr.com or (916) 930-1993.

Sincerely,



Gerald D. Secundy
CCEEB President



Dawn Koepke
CCEEB Water, Waste & Chemistry
Project Manager

cc: Matt Rodriguez, Secretary, California Environmental Protection Agency
George Alexeeff, Director, OEHHA
Alan Hirsch, Chief Deputy Director, OEHHA
Carol Monahan-Cummings, Chief Counsel, OEHHA
Mario Fernandez, Counsel, OEHHA
Gina Solomon, Deputy Secretary for Science & Health, Cal/EPA
Tara Dias-Andress, Deputy Secretary for Legislative Affairs, CalEPA
Nancy McFadden, Executive Secretary, Office of the Governor
Dana Williamson, Cabinet Secretary, Office of the Governor
Cliff Rechtschaffen, Senior Advisor, Office of the Governor
Kish Rajan, Director, Governor's Office of Business & Economic Development