

April 8, 2015

Mr. Allan Hirsch  
Chief Deputy Director, OEHHA  
1001 I Street  
Sacramento, CA 95814

**RE:** Comments on revised Proposition 65 warning regulations

Dear Deputy Director Hirsch,

In peer-reviewing the documentation that was sent to me for the proposed warning regulations of Prop 65 (Notice of Proposed Rulemaking, Article 6, and Initial Statement of Reasons), my general response is both positive and supportive of the proposed changes. I believe that the revisions will benefit Californians to make more informed decisions relative to their potential exposure to listed chemicals known to the state to cause cancer or reproductive toxicity.

In considering the three issues you requested that the committee members evaluate, here are my responses:

1. *The appropriateness of the criteria used to select chemicals that must be specifically identified in the text of the warning: Consider if the scope, specificity and suitability of each criterion meets the goal of making Proposition 65 warnings more informative and meaningful to the public. Determine if individual scientific criteria should be added, deleted or modified. Please review Section 25602, pages 14-23 of the Initial Statement of Reasons for further rationale on criteria selection and individual chemical information.*

**Response:**

The rationale for the scientific criteria appears to be comprehensive and relevant in considering (i) the utility of “right-to-know” and (ii) the availability of information. Is there an opportunity to adopt a more expeditious mechanism for future modifications/revisions to the criteria? However, it is understood that procedural limitations of revising the Code of Regulations may preclude such an implementation.

2. *Whether the current list of 12 chemicals/chemical groups meets the selection criteria: Consider whether a different chemical/group from the Proposition 65 list should be substituted for one of the chemicals/groups specifically identified in Section 25602, and whether chemicals/groups should be added to, or deleted from, the current list.*

**Response:**

This reviewer does not object to the current list of chemicals/groups but questions the exclusion or at least the consideration of other categories/classes such as Dyes, Nickel-based compounds (Nickel), and/or N-Nitroso compounds (N-Nitroso), which figure prominently on the current list. If a significant number of notices, complaints, settlements, or judgments support the addition of these categories, this reviewer would

be in favor of inclusion. As above, is there an opportunity to adopt a more expeditious mechanism for future modifications/revisions to the chemicals/groups as new scientific evidence becomes available?

In Section 25600.1 (Definitions), the use in 'Dietary supplement' of "(D) An amino acid." seems arbitrary from a biological perspective. It would be useful and applicable to extend this definition to also include other macronutrients like a nucleotide (such as supplemental ATP), a lipid (such as supplemental DHA), and a carbohydrate or a saccharide (such as supplemental maltodextrin). Is this definition constrained by section 10200 of Title 17?

3. *Whether the current informational resources and references are adequate in scope and depth to: a) appropriately describe the specifically identified chemicals, and b) support the set of five criteria developed to select chemicals that must be specifically identified in the text of the warning. Please suggest additional information or citations, if appropriate.*

**Response:**

Yes, the current informational resources and references appear adequate to this reviewer. No substantive changes recommended.

Sincerely,



Jason Bush, PhD

Member, Carcinogen Identification Committee