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

**RE: Comments – Title 27, Article 6, Subarticles 1 and 2: “Proposition 65 Warning Regulation”**

Oatey would first and foremost thanks the Office of Environmental Health Hazard Assessment (OEHHA) for allowing Oatey the opportunity to comment on the proposed Proposition 65 changes.

Oatey is a privately held manufacturer of rough plumbing supplies based in Cleveland, Ohio. We make the chemicals and mechanical components used to ensure water is delivered to and waste removed from a building without worry. This includes solvent cements for plastic pipe, solder and flux for copper systems, waste fittings for sinks and showers as well as a wide assortment of other plumbing components. The odds are that anyone reading this letter uses our products in some way every day. The vast majority of these products are made and/or distributed through domestic operations, including at a facility in Newark, California that serves as a distribution center for our West Coast operations. The California market is of course very important to our company and represents sales larger than many other states combined.

Oatey firmly believes in treating our associates and customers with respect and providing them accurate information to make informed product decisions. We were the first in the solvent cement industry to voluntarily place notices on our containers about tetrahydrofuran being classified by the US EPA as a suspected possible carcinogen and feel this was the right thing to do.. Our history has many other examples like this where we have put associate and consumer right-to-know first and foremost.

However, in spite of or maybe because of our philosophy, we have a few issues and subsequent suggestions with the proposed language currently open for comment, specifically for Subarticle 2, §25601 - §25604, but likely applicable across the rule more generally as well:



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1. Use of the word “can” to describe exposure in the proposed warning seems to be ambiguous and could cause undue confusion for the consumer without providing more caution than already exists. Similarly one might use “could”, “may”, “might” or similar phrasing. Instead, we would recommend leaving the language as currently mandated.
2. Use of the phrase “expose you to” in reference to a chemical known to the state to cause cancer seems to be unnecessary. A consumer reading the label would inherently know that as a user of a product containing such a chemical they could be exposed. We propose not making this change.
3. The listing of specific chemicals in a warning as outlined in §25602 is not needed. Most if not all chemicals on the list need placed on the label under OSHA guidance. As will be noted several times in these comments, label space is already a premium for many product types. Further, SDS sheets have listed various state recognized hazards including California Proposition 65, and this information is readily and easily available.
4. The use of any international hazard warning symbol or any symbol resembling such icons (in this case the exclamation point icon in §25604(a)(1)) should not be required. First, these can be confused with the GHS icons manufacturers are already being required to place on products. Further, GHS icons will typically be required for products that have associated hazards. This makes a specific Proposition 65 symbol redundant, and given the lack of label space in many cases, any redundancy should be eliminated. We would suggest relying on GHS labeling to take its course and if the state so chooses in a couple of years, revisiting this issue.
5. The font size requirements for the word “WARNING” and the warning itself are not always feasible. Many products already have label requirements from various laws and regulations, vendors, and customers that reduce available space, especially on smaller sized packages. So a size minimum may be infeasible. But, we do agree with the requirements that WARNING should be in a bold font, and we also believe something should be done to distinguish the statement from other label text. As such, we would propose maintaining the bold face type for WARNING as well as requiring some distinction between the warning statement and the rest of the label verbiage. This could be spacing, type style or some other method to be discussed.
6. Making the warning statement bilingual per §25603(d) is not always practical either.



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7. Requiring the placement of the Proposition 65 web site ([www.P65Warnings.ca.gov/product](http://www.P65Warnings.ca.gov/product)) per §25604 on the labels will cause confusion for consumers. Consumers looking for product information will and in prior attempts at efforts like this have gone to the wrong web site. Instead of requiring placement on the label, we would suggest placement of informative signs at the point of purchase. This is the place where most consumers will be reading labels and may have inquiries. And with the advent of smart phones, they can go to the web site at that time.
8. For catalog listings and purchasers, placement of the warning is not feasible as proposed in §25603. Print catalogs are becoming less utilized, meaning few individuals use them and those who do only do so for quick reference. Having a separate link online for each product to a Proposition 65 statement is also redundant as many products have dedicated product pages that will have the SDS linked directly to them. This keeps the information within two clicks for the user. We suggest eliminating this requirement.

Again, thank you for the opportunity to comment. Oatey looks forward to and desires dialogue directly with Staff on this matter as the rule development process moves forward. Please feel free to contact me via phone or email as listed in the letterhead should you wish to discuss.

Sincerely,

Michael Schmeida, MSc, LEED Fellow  
Corporate Manager – Stewardship  
Oatey Company

Cc: File