

From: "David Armstrong"
To: <cmcummings@oehha.ca.gov>
Date: 10/16/2007 3:45 PM
Subject: Comments on Prop. 65

Dear Ms Monahan-Cummings

California Environmental Insider dated 10/16/07 indicated that you are accepting comments on Prop 65. As an Environmental Engineer in Calif. for more than 30 years, I have these comments:

1. This law needs a complete overhaul, not minor tweaking. This type of law is referred to as a "gotcha" law, because companies are set up with requirements, without prior notice. Then an agency or unscrupulous lawyer sneaks up on unsuspecting parties and surprises them with a fine or a lawsuit.
2. The proper way to conduct environmental laws is exemplified by the Regional Water Quality Control Board, where I spent some time. They notify the party of a requirement, get their commitment to comply in writing, and require periodic reporting to ensure that they are on board.
3. When Prop 65 was enacted, companies were harrassed by numerous "gotcha" lawsuits, as a result of this poorly crafted law.
4. One of the biggest defects in Prop 65 is the exemption for government agencies. This allowed the agencies with power to change Prop 65 to be exempt from the fallout from a defective law. For example, when private parking garages were sued by unscrupulous lawyers under Prop 65, the government owned garages were exposing the public to the exact same pollutants. I believe if government is pulled under the umbrella of Prop 65, there is a greater chance for reason to evolve out of the current mess.

Thanks, for the opportunity to comment,
Dave Armstrong