



# HOSHIZAKI AMERICA, INC.

March 29, 2021

Ms. Monet Vela  
Office of Environmental Health Hazard Assessment  
1001 I Street, 23<sup>rd</sup> Floor  
Sacramento, CA 95812-4010

*Via portal at:* <https://oehha.ca.gov/comments>

**SUBJECT: COMMENTS TO PROPOSED AMENDMENTS TO ARTICLE 6, CLEAR AND REASONABLE WARNINGS SHORT-FORM WARNINGS**

Dear Ms. Vela:

Hoshizaki America and distributors of Hoshizaki America products in California thank you for the opportunity to submit comments regarding the Office of Environmental Health Hazard Assessment's ("OEHHA") Notice of Proposed Rulemaking: Amendments to Article 6, Clear and Reasonable Warnings Short-form Warnings dated January 8, 2021 ("Proposed Rulemaking"). Hoshizaki America manufactures commercial refrigeration products including commercial ice makers and commercial refrigerators/freezers. Our products are introduced into the California market for use in varying locations such as restaurants, hospitals, schools, hotels, and other food service locations.

Hoshizaki America has substantial concerns with the Proposed Rulemaking because it seeks to upend the Article 6 warning requirements that just went into effect a mere two years ago. The repeal and replacement of the Article 6 warning requirements were some of the most substantial amendments to the Prop 65 regulations in more than a decade. Both the plain language of the amendments and direct statements from OEHHA promised the business community "more certainty and confidence" in the new warning requirements. Hoshizaki America invested significant time and capital to research and properly label its products to bring them into compliance with the new regulations.

Hoshizaki America does not agree with the overall change to the short form warning requirement. Based on the language of Article 6 and the May 2019 publication Proposition 65 Clear and Reasonable Warnings Questions and Answers for Businesses, OEHHA assured businesses that there were no size limitations for which products could utilize short form warnings. Every change to warning requirements involves a significant investment in time and capital. This is a significant burden after complying to the current standard that was just implemented two years ago. To ask a company to change the warnings within two years with no justification as to why the warnings specified by OEHHA were not sufficient does not give

confidence to manufacturers that they will not have future changes imposed on them without ample reason.

Hoshizaki America also requests that consideration be given on the adverse economic impact of the changes and reasoning be given for the size limitation for the short form warning. The reasons given by OEHHA do not go into specifics as to the actual burden or as to the reason 5 square inches was chosen. OEHHA came out in guidance documents in 2019 and specified that there was no size limitation for which products could use the short form warning. There should be more documentation and justification as to why the limitations are being considered now. These changes will only cause more confusion and increased potential for litigation against small businesses in an already difficult economy.

Thank you for the opportunity to comment on the proposed amendments for Article 6. We request that the proposed rulemaking amending the short-form requirement under Article 6 be withdrawn.

Sincerely yours,

Stephen Schaefer

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