

January 21, 2022

Monet Vela
Office of Environmental Health Hazard Assessment
1001 I Street, 23rd Floor
P. O. Box 4010
Sacramento, California 95812-4010

RE: Proposed Modified Amendments to Article 6, Clear and Reasonable Warnings
Short Form Warnings

Dear Ms. Vela:

On behalf of the US Hemp Roundtable, we wish to offer the following public comments relative to the proposed modified amendments referenced above.

The hemp industry has become one of the most regulated and consumer safety-focused industries in the state. Newly enacted hemp CBD law imposes robust warning requirements to ensure that consumers have abundant information in hand before making a decision to purchase a product. These warnings include reproductive health warnings for both pregnant and breastfeeding persons, child safety warnings and stringent protections against misleading health claims.

Warning label size: We acknowledge that the proposed modifications include an increase in label size from 5 square inches to 12 square inches. While the increased size may be a step in the right direction for many industries, we assert that increased size is not valuable relative to many hemp CBD products, which tend to be small, and cannot accommodate a label larger than 5 square inches. Therefore, allowing the short form warning for a 12 square inch label on products with such small packaging and labeling space is not helpful to the industry.

However, notwithstanding the size of the label, our previously stated concerns regarding the amount of verbiage required to be included on the label remain. Current hemp CBD law places very specific requirements on manufacturers to include labels that highlight specific health warnings as well as other information, including:

- Unique identifier linked to a testing certificate of analysis
- Product manufacturer, packer, or distributor information
- Batch numbers
- Concentration levels of THC and CBD

- Expiration or “best by” date, if applicable
- A statement indicating that children or those who are pregnant or breastfeeding should avoid using the product prior to consulting with a health care professional about its safety
- A statement that products containing cannabinoids should be kept out of reach of children
- The following statement, “THE FDA HAS NOT EVALUATED THIS PRODUCT FOR SAFETY OR EFFICACY”

We are also required to include the information established in the current Proposition 65 short form warning regulations. All of this information must be placed on a label that resides on a product that is much less than 5 square inches, let alone 12 square inches.

The combined verbiage requirements by OEHHA and the Department of Public Health effectively crowds all of the warnings to the point that they become the visual equivalent of “white noise,” doing a great disservice to California consumers.

Because hemp CBD products already have expansive warning requirements – including a warning specific to potential reproductive health risks – we submit that OEHHA should not increase the Proposition 65 verbiage on short-form warning labels.

Explicit mention of chemicals: We echo the concerns raised by the coalition led by the California Chamber of Commerce and the Consumer Brands Association regarding the listing of one or more chemicals that can cause cancer or reproductive harm. Their letter notes the uncertainty in the proposed regulatory changes as to whether OEHHA means one chemical or all chemicals that might cause harm. That uncertainty aggravates the situation with the amount of space available on a hemp CBD product label. Not only does every new word further crowd the space available, making the label increasingly unproductive for the consumer, but current law requires hemp CBD products to undergo rigorous testing, the results of which must be made easily accessible to the consumer. Hemp CBD products are already required to provide far more consumer safety information than OEHHA could ever imagine.

Timing: We share the broader concern of the business community that these changes allow only 12 months for businesses to overhaul their compliance program to align with these new regulations. The hemp industry is just now adjusting labels to comply with the new hemp CBD labeling requirements described above, and these proposed changes will force the industry to pivot in a very short timeframe to a different regulatory framework, requiring the industry to once again engage in the very expensive revamping of labels on a wide variety of products.

Monet Vela
Short Form Warnings
January 21, 2022
Page Three

Solution: We urge OEHHA to clarify in these regulations that any products that are in compliance with California's hemp CBD labeling laws are in compliance with the Proposition 65 short form warning regulations. The effect would be the same as complying with the short form warning provisions, without the unnecessary redundancies that will exacerbate the current regulatory burdens in the hemp CBD industry.

We thank you for your favorable consideration of these comments.

Sincerely,



Rand Martin

cc: Miren Klein, Assistant Deputy Director, Department of Public Health
Stuart Thompson, Chief Deputy Legislative Secretary to Governor Newsom