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SUBMITTED VIA OEHHA RULEMAKING PORTAL: <https://oehha.ca.gov/proposition-65/comments/comment-period-notice-second-15-day-modification-proposed-amendments-title>

April 20, 2022

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

RE: Comments on 2nd 15-day Modification to the Proposed Amendments to Article 6 Clear and Reasonable Warnings Short Form Warnings

Dear Ms. Vela:

On behalf of the Air-Conditioning, Heating, and Refrigeration Institute (AHRI), the following comments are submitted to the California Environmental Protection Agency Office of Environmental Health Hazard Assessment (OEHHA) in response to the April 5, 2022, notice of 2nd 15-day Modification to Text of Proposed Regulation, Title 27, California Code of Regulations Proposed Amendments to Article 6 Clear and Reasonable Warnings Amendments – Short Form. AHRI members appreciate the OEHHA addressing stakeholder concerns by making additional modifications to the proposed amendments. While the additional modifications are a positive step forward, AHRI members still have some lingering concerns with the proposed amendments to the Proposition 65 (Prop 65) Short Form Warnings. AHRI members still believe the current short form warnings provides sufficient notice to alert consumers of potential harm to a chemical known to cause cancer or reproductive harm. AHRI requests OEHHA to address AHRI's proposed changes to the modifications and provide further clarity to our concerns below.

AHRI is the trade association representing manufacturers of heating, cooling, water heating, and commercial refrigeration equipment. More than 300 members strong, AHRI is an advocate for the industry and develops standards for and certifies the performance of many of the products manufactured by our members. In North America, the annual output of the heating, venting, air-conditioning, and refrigeration (HVACR) and water-heating industry is worth more than \$44 billion. In the United States alone, the HVACR and water heating industry support 1.3 million jobs and \$256 billion in economic activity.

AHRI supports the comments submitted by the California Chamber of Commerce and the Consumer Brand Association, which are incorporated by reference.

Elimination of the label size and package shape limitation

AHRI members support OEHHA's modification to the proposed amendment to eliminate the maximum label size limitation and the package shape limitation. The current short form warning allows manufacturers the flexibility to use the short form warnings on a variety of product lines with varying space availability.

Service Parts

AHRI members request OEHHA to clarify that service or replacement parts will not require a separate Prop. 65 warning when a professional technician installs the service parts even if they are potentially accessed by a consumer because a Prop. 65 warning will be on the equipment and would address this issue, if applicable.

Consumer Interaction

AHRI members note that HVAC equipment is frequently stored in an attic or garage closet where consumer interaction is limited to the thermostat mounted on a wall. Beyond that, servicing of the HVAC equipment is left to a trained technician who understands the technical features of the unit.

OEHHA must provide, at a minimum, a three-year transition period

AHRI members appreciate the additional year to the transition period for the proposed amendments to two years total. However, two years is still not sufficient time for manufacturers to fully comply with the proposed amendments. OEHHA notes the additional year is consistent with the two-year transition period provided in the 2018 provisions. Even then, the two-year transition time was not sufficient to prepare for the 2018 provisions.

As noted in our previous comments, AHRI members requested a five-year transition period to account for the time needed to evaluate their products and identify the appropriate chemical, will need to redesign and implement labels on potentially tens to hundreds of thousands of packages and implement this process within the supply chain. The proposed amendments to the short form warning are a time consuming and resource-intensive process where, at a minimum, OEHHA should provide a three-year transition period.

Businesses and manufacturers are still grappling with supply chain issues and labor shortages due to the pandemic. Manufacturers will need the additional time to factor in these additional challenges that were not in existence during the 2018 provisions.

Clarification of listing one chemical instead of “one or more chemicals”

AHRI members appreciate OEHHA’s clarification that the listing of one chemical that may cause cancer or reproductive or both is all that is needed on the short form warning.

In conclusion, AHRI requests OEHHA to address AHRI’s proposed changes to the modifications and provide further clarity as noted above.

Respectfully Submitted,



Marie Carpizo
AHRI General Counsel