

November 15, 2023

**Public comments on the California Office of Environmental Health Hazard Assessment's proposed Amendments to Article 6, Clear and Reasonable Warnings Safe Harbor Methods and Content**

Submitted via electronic docket at <https://oehha.ca.gov/comments>

MONARCH LLC would like to submit the following comments to the California Office of Environmental Health Hazard Assessment (OEHHA) related to the proposed Amendments to Article 6, Clear and Reasonable Warnings Safe Harbor Methods and Content. We appreciate this opportunity to provide input.

**Mother's Oversight Network for Actionable Response to Contaminant Harm [MONARCH] LLC is a California company organized to promote awareness of exposure to toxic chemicals. We appreciate and support OEHHA's intention to clarify Proposition 65 short-form warnings by making said warnings more informative for consumers.**

- 1. MONARCH fiercely supports the requirement to list a specific chemical name on all Proposition 65 warning labels; this transparency is necessary for these warnings to be both "clear" and "reasonable."**

At the recent 2023 Proposition 65 Conference, the theme of the day from many panelists and speakers was a call for "compliance via reformulation and removal of toxic chemicals." Dr. Claudia Polsky, Director of Berkeley Law's Environmental Law Clinic, spoke about her team's research on the effectiveness of Proposition 65 warnings since their implementation decades ago. Her team's work suggests consumers in other states are actually "more likely to" pay attention to Proposition 65 warnings. Dr. Polsky highlighted the ways in which, "when done correctly, clear and reasonable warnings make an impact on the health of" consumers in California, as well as nationwide. MONARCH feels that OEHHA is making great strides for the health impacts of all Californians by requiring a specific chemical on Proposition 65 warning labels.

The goal of the Proposition 65 warning is to provide meaningful information to consumers, and to hold industry responsible to test for harmful chemicals in their products. That said, research shows that "over warning" or prophylactic warnings, or warnings that are too lengthy, can undercut this goal and result in consumers ignoring the warnings altogether. Therefore, while we urge OEHHA to require warnings to include the name of the Listed Chemical, we understand the practical issues involved should a product contain multiple Listed Chemicals. Thus, we suggest that OEHHA create practical guidelines for producers so that at least one of the Listed Chemicals will be included in any warning (although the goal should be to include them all).

- 2. MONARCH believes streamlining the language of Prop 65 warnings such as "Cancer risk from exposure to [chemical]," or the alternative option "Can expose you to [chemical], a carcinogen," or similar reproductive harm language will benefit ALL consumers, not just Californians. Conversely, we feel OEHHA is backtracking by adding the options of "CA Warning" or "California Warning."**

OEHHA claims “[t]his signals that the warning is being provided pursuant to California law and reduces uncertainty if the products are purchased outside California.” We question the use of the term “uncertainty” here – these chemicals are toxic to consumers everywhere. The addition of “CA” or “California” solely benefits industry; it will only confuse consumers throughout the USA, including California, which runs counter to both the letter and spirit of H&S 25249.6’s notice requirement. MONARCH urges OEHHA to not complicate an already effective warning (see reference above to Dr. Polsky’s research), which provides relevant information to all consumers, regardless of where they reside.

**3. Finally, MONARCH urges OEHHA to adopt more accessible forms of Proposition 65 warnings since the law exists to protect all consumers from potential exposure to toxins.**

We call on OEHHA to consider consumers with vision impairment, as well as those whose native language is not English when codifying these new Amendments (both online and in-person). There are many accessibility options (such as NaviLENS) that would provide in-person, real time warnings to all consumers.

Furthermore, OEHHA should remove the new consideration calling for “(B) a clearly marked hyperlink using the word “WARNING” or the words “CA WARNING” or “CALIFORNIA WARNING” on the product display page that links to the warning.” Hyperlinks are notoriously difficult for screen readers to display, which could result in a lack of information for those utilizing these tools in their daily lives. Our team believes the most effective way to ensure consumer protection is “(A) a warning on the product display page,” which is plainly written in these new Amendments.

The purpose of this law is incredibly clear: the onus for providing a clear and concise warning to consumers is on the manufacturers, distributors, and retailers. Consumers should not have to search for ways to protect themselves. These warnings should be offered clearly and reasonably, no matter a consumer’s circumstances, ability, fluency, or any other characteristics that could impose a barrier to warning. Often, these groups are already at a higher risk of exposure to chemical harm, and OEHHA is in a position to help mitigate the risks of further exposure with more accessible Proposition 65 warnings.

**Conclusion**

The right-to-know purpose of Proposition 65 exists to promote both public health and safety. Clear and reasonable warnings allow the general public to make informed choices about their exposure to toxic chemicals – the same can be said for these warnings in the workplace to mitigate potential exposure. California should take a proactive approach to implementing regulations that protect its citizens. MONARCH feels that, while taking *some* steps in the right direction, these new Amendments to Proposition 65 warning requirements could go even further to ensure consumer protection.

Sincerely,



Sayward Halling  
MONARCH LLC