

January 3, 2024

Attention: Esther Barajas-Ochoa  
Office of Environmental Health Hazard Assessment  
P. O. Box 4010 Sacramento, California 95812-4010

Submitted via <https://oehha.ca.gov/proposition-65/comments/comment-submissions-notice-proposed-rulemaking-and-announcement-public>

Re: Madison Air Comments in Response Notice of Proposed Rulemaking and Announcement of Public Hearing: Amendments to Article 6, Clear and Reasonable Warnings Safe Harbor Methods and Content

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Dear Ms. Barajas-Ochoa:

Madison Air respectfully submits these comments in response to the California Environmental Protection Agency Office of Environmental Health Hazard Assessment (OEHHA) in response to the Notice of Proposed Rulemaking on Clear and Reasonable Warnings: Short-form Warnings – Amendments to Title 27 California Code of Regulations § 25601, 25602, 25603, 25607.2 And New Sections 25607.50, 25607.51, 25607.52, And 25607.53; Clear And Reasonable Warnings, Safe Harbor Methods and Content (“Prop 65”) on October 27, 2023.

Madison Air is one of the largest and most successful privately held companies in the world with a significant footprint in the HVAC market. Our mission is to make the world safer, healthier, and more productive through the power of better air. Madison Air’s portfolio comprises of at least 18 companies including Big Ass Fans, Broan NuTone, Nortek Global HVAC (NGH), Specified Air Solutions, Therma-Stor, and UV Resources. Through these companies, Madison Air offers products that could be impacted by changes to OEHHA’s proposed changes to Prop 65.

We provide our concerns regarding the significant challenges that these proposed amendments pose for the industry, which warrant careful consideration. Madison Air requests OEHHA to address our proposed changes and provide clarity regarding our concerns below.

### **Current Short Form Warnings Provide Sufficient Notice to Consumers**

Madison Air recommends keeping the current short form warning label requirements for Prop 65. The current short form warning provides sufficient notice to alert consumers of potential harm by a chemical known to cause cancer or reproductive harm. It places the

consumer on sufficient notice to gather any additional information that may be necessary to decide how to proceed.

One concern for manufacturers is that the addition of a chemical to the label will create confusion for consumers. By adding a chemical to the warning label for equipment or products that are already on the market, consumers may think that the chemical was recently added to the equipment or product.

Therefore, Madison Air recommends that the short form warning label requirements are kept as currently written in the regulations.

### **Limited Consumer Interaction with HVACR Equipment**

Madison Air recommends that an exception is made for HVACR equipment, which is usually operated in confined spaces. Madison Air wishes to impart that this is similar to the concept of internal components which the consumer will never be exposed.<sup>1</sup> OEHHA already acknowledges that for internal components for which the consumer will not be exposed, there is no need to include a Prop 65 warning label.

The proliferation of warning label requirements to more products where no real risk of exposure occurs diminishes the value of the Prop 65 warning on products where there is actual risk of exposure.

Given that HVACR equipment is commonly installed in spaces such as attics, utility closets, garages, ceilings, or rooftops, direct consumer interaction with chemicals is typically quite limited. In day-to-day scenarios, consumers generally only interact with HVACR through a wall-mounted thermostat. Legal regulations mandate that any servicing of HVACR equipment must be carried out by a trained technician familiar with the unit's technical features. Consequently, it seems unnecessary to compel manufacturers to provide detailed Prop 65 warnings, as consumers are expected to have minimal contact with these systems, including those installed in ceilings or mounted on rooftops, and are unlikely to encounter any internally stored chemicals.

### Exemption for Replacement Components

We appreciate that components currently have an exemption under the amendments when sold as part of the fully assembled product or equipment.<sup>1</sup> However, an exemption should be required for replacement component parts when sold and packaged separately.

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<sup>1</sup> Initial Statement of Reasons, Clear and Reasonable Warnings Safe Harbor Methods and Content Title 27, California Code of Regulations Division 4, Chapter 1, Article 6, Subarticle 2 Proposed Amendments to Existing Sections 25601 - 25603, 25607.2 Proposed Adoption of New Sections 25607.50 - 25607.53, at page 7.  
<https://oehha.ca.gov/media/downloads/cnr/isornprshortformamendments102723.pdf>

Manufacturers often do not have packaging specifically for components and by requiring a label, this would cause manufacturers to have to develop specific packaging for these component parts.

In addition, this exemption should also be applied to Commercial Appliances and Commercial Appliance service parts. Like HVAC and water heating equipment, Commercial Appliances are also covered by trained service people. Thus, interaction between service parts for Commercial Appliances are limited to those trained to handle them and the short form warning is not necessary.

Madison Air recommends adding an exemption to the proposed amendments for replacement component parts and Commercial Appliance service parts.

In conclusion, the proposed amendments to Prop 65's short form warnings will demand a thoughtful and collaborative approach. This will require that all relevant parties balance the need for consumer safety with the practical challenges faced by the HVACR industry. Madison Air strongly requests that OEHHA rescind the proposed amendments to the short form warnings.

Madison Indoor Air Quality appreciates the opportunity to provide these comments. If you have any questions regarding this submission, please do not hesitate to contact me.

Sincerely,



Rupal Choksi  
Regulatory Director

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