

June 27, 2024

**PUBLIC COMMENTS ON THE CALIFORNIA OFFICE OF ENVIRONMENTAL
HEALTH HAZARD ASSESSMENT'S MODIFICATION TO PROPOSED
AMENDMENTS TO ARTICLE 6: CLEAR AND REASONABLE WARNINGS, SAFE
HARBOR METHODS AND CONTENT CALIFORNIA CODE OF REGULATIONS**

Submitted electronically at <https://oehha.ca.gov/comments>

Mother's Oversight Network for Actionable Response to Contaminant Harm, LLC ("MONARCH") hereby submits the following comments to the California Office of Environmental Health Hazard Assessment ("OEHHA") discussing the Modification to Proposed Amendments to Article 6: Clear and Reasonable Warnings, Safe Harbor Methods and Content California Code of Regulations. We appreciate the opportunity to provide input on this matter.

MONARCH is a California company organized to promote awareness of exposures to toxic chemicals. We appreciate OEHHA's intention to clarify Proposition 65 warnings **for consumers**. As a right to know law, Proposition 65 allows California citizens to participate in informed ways in decisions that affect them, while also holding others accountable. MONARCH holds firm to the belief that protection **of consumers**, and ultimately public health, will always be the end goal when amending these regulations. In that spirit, MONARCH offers the following comments:

We applaud OEHHA for standing by its commitment to require a chemical on short-form warnings. As mentioned in our previous comment on the matter, studies have found that Prop 65 warnings are "more effective¹" when they include a chemical name, thereby allowing consumers to make more informed decisions.

75% of American adults shop online² and OEHHA must do a better job of protecting consumers who purchase products online.

1. MONARCH strongly disagrees with OEHHA's removal of the following language in the section discussing Internet Warnings: "the warning must also be included: on or with the product when delivered to the consumer using one or more of the methods in Section 25602(a)(3) or Section 25602(a)(4); on labeling accompanying the product as defined in Section 25600.1(j); or as otherwise specified in Section 25607 et seq."

Removing such a protection is a step in the wrong direction. Consumers should, *at minimum*, be offered a warning on a product upon receipt as well as prior to a purchase. To better public health, one must aim to mitigate potential exposure at all levels – in this case that is in advance of purchase and prior to exposure (i.e., opening/gifting/donating).

¹ <https://oehha.ca.gov/media/downloads/crn/112715isorappendixa.pdf>

² https://maristpoll.marist.edu/wp-content/misc/usapolls/us180423_NPR/NPR_Marist%20Poll_Tables%20of%20Questions_May%202018.pdf

2. As mentioned in our last public comment, OEHHA should remove the 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.” 59% of people surveyed by Columbia University never clicked links for more information before making active decisions online³. SparkBox, a usability research group, found that only 28% of people surveyed clicked “read more” in user experience tests⁴.

As well, more than four million Californians identify as disabled⁵. Many of these disabled consumers utilize screen reader tools for their daily needs, including shopping. Hyperlinks are notoriously difficult for screen readers to display, which could result in a lack of information for those using these tools. 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. Alternatively, OEHHA could consider:

- (A) Prop 65 Warning images – using the triangle – which are more accessible to users, and more likely to be clicked than hyperlinks⁶.
- (B) Pop up Prop 65 Warnings which automatically alert screen readers of important content.

The purpose of Proposition 65 is incredibly clear: the onus for providing a clear and reasonable warning to consumers is on manufacturers, distributors, and retailers. Consumers should not have to search for ways to protect themselves. The right-to-know purpose of Proposition 65 exists to promote both public health and safety and allows 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. Overall, we are in support of OEHHA amending Article 6, but urge OEHHA to address the above concerns to ensure sufficient consumer protection.

Sincerely,



[Sayward Halling \(Jun 28, 2024 10:23 PDT\)](#)

Sayward Halling
MONARCH

³ <https://inria.hal.science/hal-01281190>

⁴ <https://sparkbox.com/foundry/are-read-more-links-necessary-easier-to-use-best-article-listing-layout-first-click-test-usability-ux-research>

⁵ <https://www.hcd.ca.gov/policy-and-research/intersectional-policy-work/people-disabilities#:~:text=According%20the%20U.S.%20Census%20Bureau,million%20Californians%20have%20a%20disability.>

⁶ <https://sparkbox.com/foundry/are-read-more-links-necessary-easier-to-use-best-article-listing-layout-first-click-test-usability-ux-research>