

**CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY  
OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT  
SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986  
PROPOSITION 65  
NOTICE OF MODIFICATION TO TEXT OF PROPOSED REGULATION  
TITLE 27, CALIFORNIA CODE OF REGULATIONS  
PROPOSED AMENDMENTS TO ARTICLE 6  
CLEAR AND REASONABLE WARNINGS – SHORT FORM**

**December 17, 2021**

As required by Government Code section 11346.8(c), and Title 1, section 44 of the California Code of Regulations, the Office of Environmental Health Hazard Assessment (OEHHA) is providing notice of changes to the proposed regulatory action to amend California Code of Regulations, Title 27, Section 25602, Consumer Product Exposure Warnings – Methods of Transmission, Section 25603, Consumer Product Exposure Warnings – Content, and Section 25607.2 Food Exposure Warnings – Content. This notice initiates a public comment period beginning December 17, 2021, that will close on January 14, 2022. Details on how to comment are given below.

The Notice of Proposed Rulemaking was published on January 8, 2021, in the California Regulatory Notice Register (Register No. Z2020-1229-01)<sup>1</sup>. This initiated a 60-day<sup>2</sup> public comment period, which was later extended to close on March 29, 2021. A public hearing was held on March 11, 2021, where OEHHA received 21 oral comments. One hundred sixty written comments were received during the comment period.

### **Summary of Modifications to Proposed Rulemaking**

The proposed rulemaking would amend the safe harbor warning regulations to improve the short-form warnings to provide consumers more specific information, and to limit the use of the safe harbor short form warning to small products. After carefully reviewing the comments received, OEHHA has modified the proposed regulation to, among other things: increase the maximum label size for short-form warnings from 5 square inches to 12 square inches; allow use of the short-form warning on the internet or in catalogs where the short form warning is used on the product label; provide additional signal word options; provide additional warning language options; and provide minor

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<sup>1</sup> Correction – The NPRM said “Section 25607.1 Food Exposure Warnings – Methods of Transmission” instead of “Section 25607.2.”

<sup>2</sup> This comment period was longer than required by law to provide more time for public input due to the COVID-19 pandemic.

clarifications on the wording of the warning. These proposed changes are summarized below. The specific language modifications to the proposed regulation are shown in the regulatory text.

- In Section 25602(a)(4)(A), OEHHA increased the maximum label size for short form warnings from 5 square inches to 12 square inches. OEHHA received several comments raising concerns about the originally proposed maximum label size of 5 square inches. After considering these comments, OEHHA determined a 12 square inch limit would accommodate these concerns, while still limiting use of the short-form warnings to packages with limited available label space for consumer product information that would not easily accommodate the full warning.
- In the original proposal, in Sections 25602(b) and (c), the option to use the short form warning content in online warnings or in a catalog, respectively, had been eliminated. This change has been removed and the original regulatory language that allows use of the short form warning on websites and in catalogs remains. Several commenters stated that the proposed elimination of the short form warning option for internet websites and in catalogs could result in varying warning language for the same products. OEHHA also concluded that the proposed limitation could increase product retailer responsibility, rather than allowing them to rely on the warnings on the product label or those provided to them by product manufacturers or others in the chain of commerce. or chemical manufacturers. OEHHA therefore returned to the original language. This provides consistency along the supply/distribution chain and conforms to the existing regulations in Section 25600.2.
- Additional signal word options “**CA WARNING**” or “**CALIFORNIA WARNING**” were added in several sections to allow businesses to make clear that the warning is being given pursuant to California law. This is consistent with other regulations proposed by OEHHA in the last several months. Businesses would still have the option to use the signal word “Warning”.
- OEHHA is also providing an additional warning option that more directly addresses exposure to carcinogens or reproductive toxicants to provide an additional safe harbor warning that can be used on the product label.
- In several sections the word “product” was removed from the proposed term “product label”. The existing term “label” remains. Some commenters stated that the phrase “product label” was undefined and confusing. Since OEHHA had no intention of changing the meaning, the original term was retained.

## **Accessing the Modified Regulatory Text**

The full regulatory text, with all the modified language provided in double underline and double strikeout format, is available on the OEHHA website at [www.oehha.ca.gov](http://www.oehha.ca.gov) or on request from Monet Vela in the OEHHA Legal Office at [monet.vela@oehha.ca.gov](mailto:monet.vela@oehha.ca.gov) or (916) 323-2517.

## **How to Provide Public Comments**

OEHHA is requesting comments on the modifications to the proposed regulatory text. Any written comments concerning the modifications, regardless of the form or method of transmission, **must be received by OEHHA no later than January 14, 2022<sup>3</sup>**, the designated close of the written comment period. All comments will be posted on the OEHHA website at the close of the public comment period.

OEHHA recommends that the public submit written comments electronically, rather than in paper form. Comments may be submitted electronically through our website at <https://oehha.ca.gov/comments>. Comments submitted in paper form can be mailed, faxed, or delivered in person to the address below. OEHHA encourages all commenters to submit their comments in a format compliant with the accessibility requirements of Section 508 of the Rehabilitation Act and Section 255 of the Communications Act so that they can be read using screen reader technology and those with visual impairments are able to listen to them.

All non-electronic submissions should be directed to:

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

Telephone: 916-323-2517

OEHHA is subject to the California Public Records Act and other laws that require the release of certain information upon request. If you provide comments, please be aware that your name, address and e-mail may be available to third parties.

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<sup>3</sup> The comment period was extended due to the holidays that occur during the comment period.