

**CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT**

**SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986
PROPOSITION 65**

**NOTICE OF PROPOSED RULEMAKING
TITLE 27, CALIFORNIA CODE OF REGULATIONS**

**ADOPTION OF SECTIONS 25607.36 AND 25607.37:
RENTAL VEHICLE EXPOSURE WARNINGS**

March 8, 2019

NOTICE IS HEREBY GIVEN that the Office of Environmental Health Hazard Assessment (OEHHA) proposes to adopt new sections to Article 6 of Title 27 of the California Code of Regulations.¹ Subsequent to the adoption of the new Article 6 of Title 27, California Code of Regs on August 30, 2016 and the amendments to the regulations on November 20, 2017 to clarify and make more specific certain provisions of Article 6, OEHHA received a request to adopt tailored safe harbor exposure warnings for exposures to listed chemicals from rental vehicles, and is proposing this rulemaking in response to that request.

PUBLIC PROCEEDINGS

In order to be considered, **OEHHA must receive comments by 5:00 p.m. on April 22, 2019**, 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.

Comments may be submitted electronically through our website at <https://oehha.ca.gov/comments> or via email to: P65Public.Comments@oehha.ca.gov. Comments submitted in paper form can be mailed, faxed, or delivered in person to the address below.

Monet Vela
Office of Environmental Health Hazard Assessment
1001 I Street, 23rd Floor
P. O. Box 4010
Sacramento, California 95812-4010
Telephone: 916-323-2517
Fax: 916-323-2610

¹ All further references are to sections of Title 27, Cal. Code of Regs., unless indicated otherwise.

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.

A public hearing on these proposed regulatory amendments will be scheduled on request. To request a hearing, send an e-mail to Monet Vela at monet.vela@oehha.ca.gov or to the address listed above by no later than April 8, 2019, which is at least 15 days before the close of the comment period. OEHHA will mail a notice of the hearing to the requester and interested parties on the Proposition 65 mailing list for regulatory public hearings. The notice will also be posted on the OEHHA web site at least ten days before the public hearing date. The notice will provide the date, time, and location of the hearing.

CONTACT

Please direct inquiries concerning the proposed regulatory action described in this notice to Monet Vela at (916) 323-2517, or by e-mail to monet.vela@oehha.ca.gov. Mario Fernandez is a back-up contact person for inquiries concerning processing of this action and is available at (916) 323-2635 or mario.fernandez@oehha.ca.gov.

AUTHORITY

Health and Safety Code section 25249.12.

REFERENCE

Health and Safety Code sections 25249.5, 25249.6, 25249.8(a), 25249.10, 25249.11 and 25249.12

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Background

OEHHA is the lead agency that implements Proposition 65² and has the authority to promulgate and amend regulations to further the purposes of the Act. The Act requires businesses to provide a clear and reasonable warning before they cause an exposure to a chemical listed as known to the state to cause cancer or reproductive toxicity.³ These

² Health and Safety Code section 25249.5 et seq., The Safe Drinking Water and Toxic Enforcement Act of 1986, commonly known as "Proposition 65". Hereafter referred to as "Proposition 65" or "the Act".

³ Health and Safety Code section 25249.6

proposed amendments to the regulations would provide safe harbor guidance to businesses concerning how to comply with the warning requirements under Proposition 65 for exposures to listed chemicals associated with the use of rental vehicles. At the same time, the proposed amendments would help ensure that rental vehicle warnings are provided to vehicle renters prior to exposure to listed chemicals from the use of rental vehicles.

Specific Benefits of the Proposed Regulation

The proposed regulatory action will facilitate rental car companies' compliance with the Act by providing clarity on how to provide a clear and reasonable warning for exposures to listed chemicals from rental vehicles under Proposition 65. The health and welfare of California residents will likely benefit by increasing the public's ability to timely receive clear and reasonable warnings in an appropriate manner for exposure to listed chemicals from rental vehicles. Public health and safety will be further promoted by providing access to more detailed and specific information within the warning and by the hyperlink provided in the warning.

Inconsistency or Incompatibility with Existing Regulations

OEHHA has conducted an evaluation and has determined that Article 6 is the only regulation concerning Proposition 65 warnings. Therefore, the proposed regulatory action is neither inconsistent nor incompatible with any other existing state regulations. The action does not change the existing mandatory requirements on businesses subject to Proposition 65, state or local agencies and does not address compliance with any other law or regulation.

LOCAL MANDATE/FISCAL IMPACT

Because Proposition 65 by its terms⁴ does not apply to local agencies or school districts, OEHHA has determined the proposed regulatory action would not impose a mandate on local agencies or school districts; nor does it require reimbursement by the State pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. OEHHA has also determined that no nondiscretionary costs or savings to local agencies or school districts will result from the proposed regulatory action, nor will there be any costs or savings to the state or in federal funding to the state because of the proposed regulatory action.

⁴ See Health and Safety Code section 25249.11(b).

EFFECT ON HOUSING COSTS

OEHHA has initially determined that the proposed regulatory action will have no effect on housing costs because it does not impose any new mandatory requirements on any business.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS, INCLUDING ABILITY TO COMPETE

The proposed regulatory action provides compliance assistance to rental car businesses subject to the Act by adding a safe harbor regulation and does not impose any new mandatory requirements on those businesses. OEHHA has therefore made an initial determination that the adoption of this action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

RESULTS OF ECONOMIC IMPACT ASSESSMENT (Gov. Code section 11346.3(b))

Creation or Elimination of Jobs within the State of California

The proposed regulatory action will not impact the creation or elimination of jobs within California. The action provides more specific and detailed guidance to the existing regulations by adding safe harbor warning methods and content for rental vehicle exposure warnings.

Creation of New Businesses or Elimination of Existing Businesses within the State of California

The proposed regulatory action will not impact the creation of new businesses or the elimination of existing businesses within California. The action provides more specific and detailed guidance to the existing regulations by adding safe harbor warning methods and content for rental vehicle exposure warnings.

The Expansion of Businesses Currently Doing Business within the State

OEHHA does not anticipate any major impact on the expansion of businesses currently doing business within the state. The action provides more specific and detailed guidance to the existing regulations by adding safe harbor warning methods and content for rental vehicle exposure warnings.

Benefits of the Proposed Regulation

Affected businesses will likely benefit from the proposed regulatory action because the amendments provide clarifying guidance concerning the provision of a clear and reasonable warning under Proposition 65 and would provide the added assurance of a safe harbor from potential enforcement actions. The public health and welfare of

California residents will likely benefit from warnings that are specific and appropriate for exposures to listed chemicals from rental vehicles, and that would not alert potential thieves that a vehicle is a rental.

COST IMPACTS ON REPRESENTATIVE PERSON OR BUSINESS

OEHHA is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed regulatory action. The action does not impose any new requirements upon private persons or businesses.

EFFECT ON SMALL BUSINESSES

The proposed regulatory action will not adversely impact very small businesses because Proposition 65 is limited by its terms to businesses with 10 or more employees.⁵

REASONABLE ALTERNATIVES TO THE REGULATION AND THE AGENCY'S REASONS FOR REJECTING THOSE ALTERNATIVES

Pursuant to Government Code section 11346.5(a)(13), a rulemaking agency must determine that no reasonable alternative considered by the agency, or that has otherwise been identified and brought to the attention of the agency, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

OEHHA has prepared and has available for public review an Initial Statement of Reasons for the proposed regulation, all the information upon which the regulation is based, and the text of the proposed regulation. These documents are available on OEHHA's web site at www.oehha.ca.gov.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

The full text of any proposed regulation that is changed or modified from the express terms of this proposed action will be made available at least 15 days prior to the date on which OEHHA adopts the resulting regulation. Notice of the comment period on the revised proposed regulation and the full text will be mailed to individuals who testified or submitted oral or written comments at the public hearing, whose comments were received by OEHHA during the public comment period, and anyone who requests

⁵ Health and Safety Code section 25249.11(b)

notification from OEHHA of the availability of such change. Copies of the notice and the changed regulation will also be available on the OEHHA Web site at www.oehha.ca.gov.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

A copy of the Final Statement of Reasons may be obtained, when it becomes available, from Monet Vela at the e-mail or telephone number indicated above. The Final Statement of Reasons will also be available on OEHHA's web site at www.oehha.ca.gov.

OFFICE OF ENVIRONMENTAL
HEALTH HAZARD ASSESSMENT

Allan Hirsch
Chief Deputy Director

Dated: March 8, 2019