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September 8, 2026

By Electronic Mail

To: Office of Environmental Health Hazard Assessment

From: Rachel Doughty

RE: Public Comment Submission – Draft Regulatory Language Omnibus 2026

Dear OEHHA:

1. I support OEHHA's omnibus approach. It allows for broader participation amongst policymakers, attorneys, NGOs, and the public to comment or otherwise involve themselves in the rulemaking process.
2. Topic 2: I oppose OEHHA's proposed changes.

Although the inclusion of chemicals in short-form warnings is a positive change, the proposed clarification to cite the "name of one or more chemicals" is problematic. When a product contains multiple chemicals, those in the course of doing business should not be able to choose which chemical(s) to list. All chemicals the product contains should be listed. Otherwise, the warning is not clear nor reasonable, as required by Health and Safety Code Section 25249.6.

For example, with mercury in skin-lightening products, responsible parties would be able to name a listed chemical that sounds innocuous relative to mercury, effectively concealing an exposure to mercury. Mercury is not usually included in the listed ingredients. Consumers would be left completely in the dark that they are being exposed to mercury, undermining voter intent. As such, given parties with a warning obligation this option does not provide a clear or reasonable warning.

Rather than letting the individual in the course of doing business choose which chemical(s) to include, we propose a requirement to list *all* chemicals are listed to prevent the implication to the public that chemicals known to the state that are not listed in the warning are not present when in fact they are.

3. The retailer regulations should be overhauled (see, e.g., 27 Cal. Code Regs. Tit. 27, § 25600.2(e)). The actual knowledge level of proof for retailers should be lowered to constructive if provision (g) (requiring the retail seller to promptly provide upstream

supply chain information) is not promptly complied with. Otherwise, this encourages collusion to avoid compliance.

4. Topic 5: I oppose OEHHA's proposed changes.

This proposed rulemaking would amend the Section 25602 subsection on "Internet purchases" in such a way as to impermissibly narrow the categories of entities subject to Proposition 65's requirements and impermissibly protect online marketplaces from liability. Specifically, the proposed language would limit the requirement to provide warning pursuant to Section 25603 to "manufacturer[s], producer[s], packager[s], importer[s], supplier[s], distributor[s], [and] retailer[s]." Proposition 65 has never so limited itself and this has made the law more flexible as modes of commerce evolve. There is no basis in the law to narrow its scope.

Other than retailers, there is no statutory basis to differentiate or limit those who cause exposures "in the course of doing business" (*See, e.g.*, Health and Safety Code Section 25249.11(f)). Since online marketplaces often argue that they do not fit the category of the entity being regulated at the time, by narrowing the category of entities that are subject to the warning requirement, online marketplaces will have an easier time evading liability for any dangerous products they sell.

5. Topic 7: QR Codes

If OEHHA adds QR codes as a warning method, these codes should be in addition to words on or near product or purchase which communicate basic information rather than obscure it. For example, on the example in the Omnibus Presentation slides, the following text is presented above the QR code: "Proposition 65 warning for lead. For more information, scan the QR code." Although it names Proposition 65 and the chemical, it fails to cite a cancer and/or reproductive toxicity risk. In doing so, this leaves a consumer unaware that they are being warned about a health risk.

Warnings provided pursuant to a QR code should list *all* listed chemicals present—there is no excuse for a limited list of chemicals on the webpage the QR code directs consumers to.

Attention should be paid to how warnings will work in parts of the state where cell coverage is limited.

Sincerely,

A handwritten signature in cursive script, appearing to read "Rachel S. Doughty".

Rachel S. Doughty
Greenfire Law, PC