



September 8, 2026

Dr. Kristina Thayer
Office of Health Hazard Assessment
1001 I Street
Sacramento, CA 95814

Comments re: Draft Regulatory Language Omnibus 2026

Submitted via the following link:

<https://oehha.ca.gov/proposition-65/comments/comment-submissions-draft-regulatory-language-omnibus-2026>

Dear Dr. Thayer:

Agricultural Council of California (Ag Council) represents approximately 15,000 farmers across the State of California from small, farmer-owned businesses to some of the world's best-known brands. We closely follow the activities of the Office of Health Hazard Assessment (OEHHA) due to the nature of our products. We represent the diversity of food and agriculture.

Our members take the food and products they provide very seriously and implement some of the most stringent safety standards in the world. Our food is also grown in a natural environment and Proposition 65 (Prop. 65) has a highly litigious environment. Therefore, we we have several concerns with the proposed changes to the "naturally occurring," provisions of the Draft Regulation.

General Comments:

We urge OEHHA to reconsider any changes to the naturally occurring provisions of the existing regulation. Since 1986, Prop. 65 has created decades of litigation and settlements set around its current construct. Having to honor previous cases and settlements and at the same time potentially answer to new requirements could further complicate and already overly complex regulatory and legal process.

Furthermore, as currently proposed, the suggested language is not "clarifying," as discussed in the draft. We believe it is so broad it could result in Prop. 65 warning labels on healthy juices and other nutritious foods and beverages. Routine food production involves extracting, concentrating, blending, or otherwise processing constituents from one food source into another such as fruit purees into milk or yogurt, and single-fruit juices into blended juices, as examples. The current text would sweep in a large share of everyday nutritious products alongside the narrow category of concentrated novelty flavorings it appears to target. Additionally, this could create further litigation and overwarning in some cases.

While OEHAAs aims at building clarity in the regulation, we are hopeful we can have a shared understanding of the underlying goals OEHHA is trying to achieve. Food and agricultural products are grown in a natural environment and can absorb environmental elements. Additionally, food producers can blend and add healthy nutrients into daily groceries. Neither of these scenarios should require a warning label just due to the process.

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As opposed to changing the language, we are asking that OEHHA follow precedent that supports a consumption- and exposure-based standard, rather than an undifferentiated, broad “human activity,” test that does not distinguish a concentrated additive or additional nutrients from an ordinary grocery staple.

Providing Specifics

During the workshop, OEHHA staff asked for specific language that could assist with more clarity and reduce the broad nature of the proposed language. While this language is not intended to be a final consideration, we offer it as a starting point for further conversations.

Ag Council’s suggested language is listed below in bold; OEHHA’s proposal is underlined:

(3) A chemical is naturally occurring only to the extent that the chemical did not result from any known human activity. Where a food contains a chemical, in part naturally occurring and in part added as a result of known human activity, “exposure” can only occur as to that portion of the chemical which resulted from such human activity. For purposes of this section, “human activity” does not include sowing, planting, irrigation, **application of fertilizer or crop protection materials**, or plowing or other mechanical preparation of soil for agricultural purposes; but does include the addition of chemicals to irrigation water applied to soil or crops. A listed chemical which has been extracted or concentrated from any source, such as a plant, and intentionally added to a product other than the source that creates (OEHHA to insert desired concerns/outcomes) may be present in such a product as the result of human activity even if the extraction or concentration did not change the Chemical Abstract Services Registry Number.

While we still have concerns over changing the underlying regulations, we also believe this language provides more clarity and can be used as a starting point for discussions through the regulatory process.

Thank you for your time and consideration of our requests. We look forward to working with OEHHA throughout this process to find workable solutions for both the OEHHA and the food and ag community. If you would like further discussions, please feel free to reach out to me at emily@agcouncil.org.

Sincerely,



Emily Rooney
President

CC:
Karen Ross, Secretary, California Department of Food and Agriculture

