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**Office of Environmental Health Hazard Assessment (OEHHA)
Prop 65 Omnibus Regulatory Amendments 2026;
Request for Public Comment Submissions on Draft Regulatory Language Omnibus 2026**

September 8, 2026

To Whom It May Concern:

Comments on Proposed Proposition 65 Regulatory Amendments

Thank you for the opportunity to provide comments on the proposed amendments to California's Proposition 65 regulations.

As a food manufacturer operating in California, we support efforts to improve the scientific accuracy, consistency, transparency, and effectiveness of Proposition 65 while ensuring that consumers receive accurate, contextual, and science-based information that enables informed decision-making.

The following comments are focused exclusively on food and agricultural commodities, specifically naturally occurring substances and environmental contaminants that may be present in the food supply as a result of both preventable and unavoidable human activities.

Also, contaminant exposure through food consumption should be evaluated differently from exposure to pesticides, industrial chemicals, household products, and other non-food substances. Not only do exposure routes, duration, consumer behaviors, and risk management considerations differ significantly, but food-related exposure assessments should also account for overall dietary intake, cumulative lifetime exposure, individual dietary and nutritional factors, and the nutritional benefits of food consumption.

Evaluating food exposures within this broader context provides a more accurate and meaningful assessment of potential risk than considering contaminant levels in isolation and helps provide consumers with effective tools to make informed decisions.

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Therefore, the current warning systems derived from a single-consumption scenario on each food product label may not accurately reflect actual risk and could inadvertently mislead consumers.

We respectfully submit the following comments for consideration.

Naturally Occurring Chemicals in Food with Lifetime Exposure rather than Single Consumption

We support additional clarification regarding the regulatory treatment of naturally occurring substances and environmental contaminants in food and agricultural commodities.

Many Proposition 65-listed substances, including certain heavy metals, may be present in food as a result of naturally occurring conditions or broader environmental factors rather than manufacturing activities. Environmental background levels can be influenced by soil composition, water quality, climate conditions, natural disasters, and legacy contamination from historical industrial, mining, military, or other human activities, many of which are beyond the control of growers, manufacturers, retailers, and consumers.

However, the current Proposition 65 framework does not adequately distinguish between unavoidable environmental background contamination and contamination resulting from preventable or controllable human activities. As a result, food businesses are held responsible for exposures originating from environmental conditions for which no practical or economically feasible mitigation measures exist. Under the current Proposition 65 requirements, warning obligations may apply to substances that businesses have neither introduced nor can reasonably eliminate from the food supply despite adherence to Good Agricultural Practices (GAPs) and Good Manufacturing Practices (GMPs).

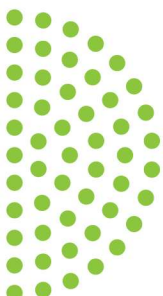
This challenge is further complicated by the realities of food production and processing. Naturally occurring contaminant levels can vary significantly based on geography, soil conditions, water sources, climate, and agricultural practices, making ingredient sourcing increasingly difficult. In addition, conventional food manufacturing processes may redistribute naturally occurring trace contaminants among different food fractions. Processes such as drying, moisture removal, extraction, concentration, or separation can affect the concentration of a naturally occurring constituent in an intermediate or finished food even when no listed chemical is intentionally added during processing. These essential manufacturing steps do not necessarily create new contamination or increase consumer risk, yet they may influence measured concentrations.

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Given these realities, food-related exposure assessments should focus not simply on the detection of a listed chemical, but on a science-based evaluation of the broader exposure context, including: **What portion of the measured concentration is attributable to unavoidable environmental background conditions? What portion is attributable to preventable human activity? What level is reasonably achievable through appropriate agricultural and manufacturing controls? And what is the resulting consumer exposure?**

Most importantly, food exposures should be evaluated within the context of overall dietary intake, cumulative lifetime exposure, and the nutritional benefits of food consumption, rather than solely on the presence of trace levels of a substance in a particular ingredient or a single serving of a product. Detection alone does not necessarily reflect actual health risk.

We encourage OEHHA to place greater emphasis on consumer education regarding naturally occurring contaminants and environmental exposures in food.

Consumers would benefit from understanding that trace levels of listed substances do not necessarily indicate adulteration, manufacturing deficiencies, or an immediate food safety concern, but often reflect the environmental realities of agricultural production and food processing. A science-based approach that emphasizes exposure, risk, context, and lifetime consumption patterns would provide consumers with more meaningful information while preserving confidence in the safety and nutritional value of the food supply.

California also has an opportunity to promote practical public health strategies beyond warning labels alone.

Research has shown that nutritional status and dietary patterns may influence the absorption and effects of certain environmental contaminants.

For example, the [National Institute of Environmental Health Sciences \(NIEHS\)](#) notes that "[folic acid supplementation lowers blood arsenic](#)" and may facilitate the body's ability to metabolize and eliminate arsenic. Likewise, [published research](#) on cadmium and lead toxicity concludes that "dietary supplements play important roles in protecting against Cd and Pb toxicity" and recommends nutritional strategies as practical tools for both the prevention and alleviation of heavy metal exposure.

Public health agencies have also recognized the importance of nutrition in reducing heavy metal absorption. [Michigan State University Extension's "Fight Lead with Nutrition" guidance](#) states that "iron can make it harder for lead to be absorbed in the body," that "calcium can help

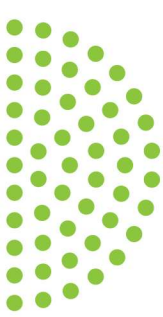
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reduce lead absorption," and that vitamin C, together with iron, "may also help reduce lead absorption."



Public education initiatives that promote balanced diets, nutritional adequacy, and evidence-based dietary supplements can provide consumers with practical tools to help manage potential risks while preserving access to nutritious foods that are important to a healthy diet.

In addition, California should continue supporting long-term environmental stewardship efforts that address the root causes of contamination.

As the [Minnesota Department of Health](#) notes, "the presence of heavy metals in inorganic fertilizers is well established," and heavy metals may occur naturally in soils as well as in source materials used to manufacture fertilizers.

In recognition of this challenge, the [Association of American Plant Food Control Officials \(AAPFCO\)](#) developed the "Heavy Metal Rule" to establish risk-based limits for metals in fertilizer products.

Understanding this reality may include reducing future contaminant inputs, encouraging responsible fertilizer and soil-management practices, restoring degraded agricultural land, improving soil health, protecting water resources, and preserving productive arable land.

Healthy soils are the foundation of a safe and sustainable food supply, and investments in soil regeneration, land remediation, biodiversity, and sustainable agriculture can improve food production to provide affordable food while reducing future contaminant burdens.

While every reasonable effort should be made to minimize contamination, certain naturally occurring and environmentally persistent contaminants remain an unavoidable reality of modern agriculture. Therefore, regulatory efforts should prioritize continuous improvement, risk reduction, environmental stewardship, and science-based exposure assessment rather than an unattainable expectation of complete elimination.

Manufacturer and Retailer Responsibility for Warning Decisions

We support efforts to clarify responsibilities related to Proposition 65 warning determinations.

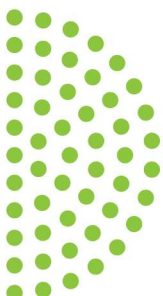
However, we believe the ultimate objective of Proposition 65 should extend beyond assigning warning obligations and instead focus on empowering consumers to make informed decisions through science-based education, transparency, and meaningful risk communication.

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As part of this effort, OEHHA should consider developing a framework that more clearly distinguishes between **preventable contaminants** and **unavoidable contaminants** when evaluating food-related exposures.

Such a framework would recognize that some contaminants can be reasonably reduced through improved sourcing, manufacturing controls, agricultural practices, or other mitigation measures, while others arise from broader environmental conditions that are largely beyond the control of individual growers, manufacturers, retailers, or consumers, such as aforementioned environmental background levels can be influenced by soil composition, water quality, climate conditions, natural disasters, and legacy contamination from historical industrial, mining, military, or other human activities.

California should avoid creating an environment that encourages blanket warnings as a liability-management tool, particularly where exposures result from unavoidable environmental conditions rather than preventable actions. The overuse of warnings can diminish the effectiveness and original intent of Proposition 65, contribute to consumer confusion, and divert attention away from meaningful public health education regarding actual exposure and risk.

Consumers should be provided with sufficient context to understand that risk is not binary and that exposures exist along a spectrum. This understanding reinforces the importance of maintaining healthy dietary habits and making informed lifestyle choices as part of a lifelong commitment to managing overall health and exposure risk.

If warnings are deemed necessary on food labels, they should be based on scientifically supported exposure assessments and accompanied by a robust, science-based consumer education program that could equip consumers with the knowledge necessary to evaluate risk appropriately, rather than create the impression that all products bearing a warning present the same level of concern or that products without a warning are entirely free of exposure risk.

Developing a more effective risk assessment, risk communication, and consumer education framework, one that distinguishes preventable exposures from unavoidable environmental background exposures, would better empower consumers to make informed decisions while enhancing the effectiveness, credibility, and overall public health value of Proposition 65.

Consideration of More Effective Risk Communication Models

To further improve consumer understanding, California should evaluate risk communication approaches used in other jurisdictions, such as the European Union's Classification, Labelling

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and Packaging (CLP) framework. Rather than relying on a one-size-fits-all warning model, California could consider:

1. Tiered or hierarchical warning categories rather than blanket warnings;
2. Risk communication based on substance concentration and estimated exposure levels;
3. Clear differentiation between low-level and higher-level exposures;
4. Enhanced consumer education regarding cumulative lifetime exposure rather than single-serving or single-use scenarios;
5. Educational information promoting balanced dietary patterns, nutritional adequacy, and evidence-based strategies that may help reduce the absorption or effects of certain environmental contaminants; and
6. Context-based disclosures that help consumers understand relative risk within the broader context of overall dietary intake, lifetime exposure, and lifestyle factors.

California should also consider leveraging modern communication tools, such as QR codes, to provide consumers with access to detailed, science-based educational content. QR codes offer a practical and flexible mechanism for delivering exposure information, dietary guidance, risk-reduction strategies, and other relevant context without overburdening product labels with excessive text.

In addition, digital communication tools may reduce the need for frequent packaging and label revisions, helping to minimize unnecessary packaging waste and supporting California's broader sustainability goals.

This effort should align with the State's ongoing efforts to reduce waste, improve packaging sustainability, and advance circular economy initiatives, and it could also improve public understanding, reduce warning fatigue, and preserve the credibility and effectiveness of health warnings by focusing attention on exposures of the greatest public health significance.

A modernized risk communication framework should not only inform consumers of potential exposures but also provide practical, science-based tools that support informed decision-making, meaningful risk reduction, and long-term public health outcomes.

Conclusion

We appreciate OEHHA's efforts to improve the effectiveness, transparency, and public health value of the Proposition 65 program.

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We respectfully but strongly urge OEHHA to revise the proposed Proposition 65 amendments to:

1. **Clarify the regulatory evaluation of naturally occurring substances in food and agricultural commodities by establishing a science-based framework that distinguishes between preventable (controllable) and unavoidable environmental contamination**, while providing transparency regarding the scientific and exposure assumptions used in food-specific exposure assessments, including cumulative lifetime exposure. Because listed chemicals such as heavy metals in agricultural commodities may originate from complex natural, geological, and historical environmental sources that cannot readily be distinguished through routine analytical testing, OEHHA should also **clarify what evidence would be considered sufficient to demonstrate whether a contaminant is attributable to natural environmental uptake or to human activity**. Such clarity would help ensure that manufacturers can reasonably satisfy their burden of demonstrating naturally occurring contamination while improving regulatory certainty and consistency;
2. **Prioritize science-based consumer education** that places potential exposures within the context of overall dietary intake, cumulative lifetime exposure, relative risk, and healthy dietary habits. OEHHA should also **promote consumer awareness of soil health, agricultural land restoration, and the environmental challenges affecting food production**, while supporting sustainable practices that reduce contamination at its source and help maintain a safe, nutritious, and sustainable food supply;
3. **Collaborate with FDA, EPA, USDA, and other scientific authorities to establish a harmonized, science-based regulatory framework** for naturally occurring chemicals in food, including clear criteria for demonstrating when contaminants originate from environmental background conditions rather than human activities. **OEHHA should also provide a clearer definition of "human activity" under Section 25501**, including how conventional food processing operations are evaluated when they may alter the distribution or concentration of naturally occurring constituents without the intentional addition of listed chemicals. Greater clarity is needed to ensure that essential food manufacturing processes are evaluated consistently and in a manner that reflects their legitimate role in food production;
4. **Provide businesses and consumers with practical compliance tools**, including commodity-specific background values, scientifically defensible exposure-assessment methodologies, and digital supplemental information using tools such as QR-code resources. OEHHA should also consider modern risk communication approaches, including concentration-based and tiered warning systems, that provide meaningful

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context and improve consumer understanding of actual risk and cumulative lifetime exposure. A credible public-health warning system must distinguish detection from exposure, exposure from risk, and unavoidable background contamination from preventable contamination, while relying on scientifically established, health-based thresholds whenever possible. For substances lacking such thresholds, the burden on businesses to demonstrate the absence of harm should be reconsidered, and OEHHA should prioritize further scientific research to develop meaningful thresholds based on cumulative lifetime exposure, realistic dietary intake, and potential long-term and generational health impacts. Such an approach would provide more relevant information to consumers, improve regulatory certainty, and reduce warning fatigue.

Thank you for your consideration of these comments.

Respectfully,



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