



OEHHA Proposes Changes to California Proposition 65 Short Form Warning Labels

California's Office of Environmental Health Hazard Assessment (OEHHA) has proposed changes to California Proposition 65 short-form warning label, which is currently allowed as an option when labeling to meet the requirements under the law. OEHHA has proposed the changes due to over use of this labeling option. They have issued a proposed rulemaking and are accepting comments from the public.

Background:

OEHHA began allowing short form labels to be used in 2018. Since 2018, the agency has observed that the short-form option has been used in situations other than intended. They have advised of three points of concern they have in regards to the current use of the short-form warning.

- 1- The name of a chemical or chemicals was not required to be identified in the short-form warning. The concern is that by not warning consumers of the specific chemical(s), it violates one of the purposes of the 2016 Cal Prop 65 amendments, which it to ensure warnings were more meaningful to consumers.
- 2- OEHHA found that some companies use the short-form warnings on products that can accommodate the larger, full warning labels.
- 3- OEHHA believes that some companies are using short-form warning labels to prevent any Cal Prop 65 liability, even in cases when the companies do not have evidence of the presence of a listed chemical(s) in their product.

Proposed Changes:

In order to address the issues mentioned above, OEHHA has proposed the following changes to the short-form warning option:

- Short-form warnings would only be allowed to be used on products which have five square inches or less of label space and only when the package shape or size cannot accommodate the full warning.
- The warning would be required to:
 - include the required hazard symbol;
 - state "WARNING" in all capital letters;
 - name at least one of the Cal Prop 65 listed chemicals causing the exposure risk and the type of risk (e.g. carcinogen or reproductive toxicant); and
 - when both types of risks are present, include at least one of the chemicals from each type.
- OEHHA will not allow the short-form warning to be used in catalog and internet sales. The reason being there is typically ample space to include a full warning for these types of sales.
- OEHHA plans to add a new requirement for the use of short-form warnings for food products. They propose that a warning can be used that includes the following: the word WARNING in all capital letters, and a similar reference to the type of risk, and the name of a chemical, as above mentioned. The food warning will not need to include the hazard symbol, but the warning will need to be set off from the other information by enclosure within a box.

Comment period:

OEHHA will accept comments on their proposal through Monday, March 8, 2021.

Effective Date:

Compliance to the revisions will be mandatory after one year from the effective date of the changes, if approved. During that period, companies may comply with either the pre-amendment or post-amendment versions of the warning labels.

Companies will be allowed to continue to sell products manufactured before the effective date that are labeled in compliance with the prior version of the short-form.

Additional Information:

Reference OEHHA website: <https://oehha.ca.gov/proposition-65/cnr/notice-proposed-rulemaking-amendments-article-6-clear-and-reasonable-warnings-0>

Recommended Action:

No action is needed at this time. Bureau Veritas will issue updates on this as needed.

Bureau Veritas Assistance:

If you have any comments and/or questions, please contact your customer service representative or email: info@us.bureauveritas.com

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