Potential Amendments to Article 6
Clear and Reasonable Warnings

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Pre-Regulatory Workshop
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Note:

- This is a pre-regulatory proposal.
- The potential regulation may change substantially prior to the eventual initiation of a formal regulatory proceeding.
- If OEHHA decides to formally propose changes, additional opportunities for public input will be provided during the formal regulatory process.
- This regulation does not establish when a warning is required.
Agenda

- Introduction
- Clarifying questions
- Overview of Proposed Changes
- Discussion
  - I. Informational Tools
  - II. Content
  - III. Methods
  - IV. Tailored Warnings
- Next Steps
- Closing Remarks
What Proposition 65 Requires

“No person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to the state to cause cancer or reproductive toxicity without first giving clear and reasonable warning to such individual....”

Health & Safety Code Section 25249.6
Purpose of this Pre-Regulatory Proposal

- Provide more useful information to the public.
- Offer businesses greater flexibility and certainty.
- Take advantage of the tremendous growth and innovation in technology since 1986.
Overview of the Regulation
Table of Contents

- Definitions, general provisions, existing settlements, opportunity to cure
- Website to provide public information
- Consumer Product Warnings
- Food Warnings
- Prescription Drug and Dental Care Warnings
- Alcoholic Beverage Warnings
- Restaurant Warnings
- Occupational and Environmental Exposure Warnings
- Tailored Warnings (Parking Garages, Hotels, Apartments and Amusement Parks).
§ 25601
Clear and Reasonable Warnings

• Mandatory – not optional “safe harbor.”
• New opportunities to request tailored warnings.
• More guidance and support for businesses.
• *Does not* apply to a business’s decision whether or not to apply a warning.
Section 25602 Definitions

- Clarifications and modifications
- Food as a “consumer product”
- New term: “retail seller”
Section 25603
Court Approved Settlements

- Designed to preserve existing settlements.
- Settlements must have been approved by a court prior to January 1, 2015.
- Applies only to the persons or entities directly affected by a mandatory provision of the settlement — not to industry as a whole.
Section 25604
Lead Agency Website

• “Interactive web-based portal.”
• Site developed and maintained by OEHHA.
• Companies report information to OEHHA.
• Consumers receive information about chemicals, exposures, ways to minimize exposures, and other key information.
Section 25605 - Chemicals, Substances or Mixtures That Must Be Disclosed

- Acrylamide
- Arsenic
- Benzene
- Cadmium
- Chlorinated Tris
- 1,4-Dioxane
- Formaldehyde
- Lead
- Mercury
- Phthalates
- Tobacco smoke
- Toluene
Section 25606 - Consumer Product and Food Warnings

- Clarifies responsibilities of product manufacturer or distributor, as compared to retail sellers.
- Responds to concerns from retailers about lack of information, as well as concerns from manufacturers and distributors about the potential for warnings to be obscured.
Section 25607
Opportunity to Cure

- Limited to retail sellers.
- With fewer than 25 employees.
- Only applies to relatively minor violations, such as:
  - Absence of sign/warning materials
  - Interruption of electronic device
  - Inadvertent obstruction of label/sign
Section 25607.1-2 – Warnings for Consumer Products Other Than Food

- Traditional and electronic methods allowed
- Content must include:
  - The international health hazard symbol
  - The word “WARNING”
  - Optional on-product text: “Cancer Hazard” or “Reproductive Hazard”
  - “Will expose you to [chemical name]” (if required to be identified)
- The URL: www.P65Warnings.ca.gov.
Section 25607.3-4
Food Exposure Warnings

- OEHHA recognizes the need for nuance.
- No GHS health hazard symbol required.
- Includes URL.
- Names of certain chemicals.
- Certain supplemental information may be provided.
- Tailored warnings may be adopted.
Section 25607.5 - Prescription Drugs and Prescription Medical Devices

- Slightly expands existing rule, which provides that a warning label approved under federal law is sufficient.
- Cancer/reproductive harm warnings already provided pursuant to federal law would be sufficient.
- Emergency consent requirements are retained.
§ 25607.6-7
Dental Care Warnings

• Exposure to nitrous oxide or mercury included in the warning message (where those chemicals are used).

• Emergency dental care is still covered by the “informed consent” exception.

• No GHS health hazard symbol required.
§ 25607.8-9
Alcoholic Beverage Warnings

• Updates to warning content incorporate Federal standard, web content.
• Simpler methods for providing warning.
• No GHS health hazard symbol.
• More convenient size of warning.
Section 25607.10-11
Restaurant Warnings

• Combines posted warning with pamphlet requirement.
• Pamphlets provide restaurants with more flexibility and space to explain exposures.
• GHS symbol not required.
Section 25607.12-13
Occupational Exposure Warnings

- Harmonizes with existing federal and state laws and rules governing workers, by providing substantially similar rules and requirements.
- Applies to the extent it is not preempted by federal law.
Section 25607.14 - Warnings for Specific Occupational Exposures

- This is a placeholder.
- Certain types of exposures may warrant “tailored warnings.”
Section 25607.15-16
Environmental Exposure Warnings

• Incorporates new technology such as e-mail and automated calls, in addition to posted warnings.
• Requires warnings to be provided in language(s) predominantly used in the area.
• Important opportunity for more tailored warnings.
Section 25607.17 - Warnings for Specific Environmental Exposures (I)

• Parking Facilities:
  • Incorporate specific language about “gasoline vapors, carbon monoxide and exhaust.”
  • Size and location specified.

• Apartments and Hotels:
  • Building management requirement.
  • Other signage – i.e., for food or parking garages.
Section 25607.17 - Warnings for Specific Environmental Exposures (II)

- Amusement Parks:
  - Mandatory pamphlet permits consolidation of warnings.
  - Language requirement particularly important.

- Other Environmental Exposures: Let us know during the “Tailored Warnings” portion of our discussion.
Questions

- Are there any general clarifying questions, or questions about our process?
- Please hold specific questions about proposed changes until the appropriate discussion session.
Written Comments - Reminder

• Must be received by OEHHA by 5:00 p.m. on May 14, 2014.
• To the extent possible, include specific regulatory language or examples of warning methods/content.
## Items to Discuss

### Informational Tools
- Website, chemicals to be disclosed in warnings, additional technology.

### Warning Methods
- Methods of transmission: Integrating technology, reaching the public.

### Warning Content
- Warning language, pictogram, and “will expose” language.

### Tailored Warnings
- Warnings for food and consumer products.
- Parking facilities, hotels, apartments, theme parks, etc.
Informational Tools: QUESTIONS & FEEDBACK

• QR Codes?
• Are there less-expensive alternatives?
• Are there other technologies that can and should be incorporated into the warning?
• Should we add any additional chemicals to the mandatory disclosure list?
Warning Methods: New Technologies

- Internet
- Electronic devices or other forms of automatic warnings
- E-mailed notices (environmental)
Proposal requires warnings in alternate languages in certain circumstances.

Nearly 43% of Californians speak a language at home other than English.

10% of all households in California are linguistically isolated.

Source: Office of Environmental Health Hazard Assessment, California Communities Environmental Health Screening Tool, Version 1.1 (September 2013)
Warning Methods:
QUESTIONS & FEEDBACK

• Costs
• Are these methods workable?
• What additional methods should we consider?
BREAK
Warning Content: Questions/Feedback

• The international health hazard symbol.
• Optional on-product: “Cancer Hazard,” “Reproductive Hazard.”
• “Will expose you to [chemical name]” where such chemical name is required to be identified.
• The URL: www.P65Warnings.ca.gov.
TAILORED WARNINGS: QUESTIONS & FEEDBACK

- Are these warnings workable for these types of businesses?
- What other specific warnings or scenarios should be added to the regulations?
- Have we missed other communication methods?
General Comments or Questions?
NEXT STEPS

• Close of comment period: May 14, 2014
• Consider Comments/Make Changes
• Start Formal Regulatory Process (Summer 2014)
• Complete Regulatory Process (Summer 2015)
CLOSING REMARKS

Thank You!