Office of Environmental Health Hazard Assessment
P. O. Box 4010
1001 I Street
Sacramento, California 95812-4010

RE: P65 Warning Regulation

Oatey would first and foremost wish to thank the Office of Environmental Health Hazard Assessment (OEHHA) for making available to the public this opportunity to comment so early in the rule amendment process on Proposition 65 changes.

Oatey is a privately held manufacturer of rough plumbing supplies based in Cleveland, Ohio. We make the chemicals and mechanical components used to ensure water is delivered to and waste removed from a building without worry. This includes solvent cements for plastic pipe, solder and flux for copper systems, waste fittings for sinks and showers as well as a wide assortment of other plumbing components. The odds are that anyone reading this letter uses our products in some way every day and just does not realize it. The vast majority of these products are made domestically, including at a facility in Newark, California that also serves as a distribution center for our West Coast operations. The California market is of course very important to our company and represents sales larger than many other states combined.

Oatey firmly believes in treating our associates and customers with respect and providing them accurate information to make informed product decisions. We were the first in the solvent cement industry to voluntarily place notices on our containers about tetrahydrofuran being classified by the US EPA as a suspected possible carcinogen and feel this was the right thing to do. Our history has many other examples like this where we have put associate and consumer right-to-know first and foremost.

However, in spite of or maybe because of our philosophy, we have a few issues and subsequent suggestions with the pre-rulemaking language currently open for comment, specifically for consumer products but likely applicable across the rule more generally as well:

1. Use of the word “will” to describe exposure in the proposed warning statement is not always accurate, depending upon the specific chemical and exposure potentials. For example, using paint thinner containing toluene (if such a product exists on the market) will expose the user to toluene via inhalation of the toluene vapors, a risk-exposure behavior. However, a bartender who does not drink but serves alcoholic beverages is not coming into contact with alcohol in a manner that will create a risk-exposure. Situational considerations are critical to consider. Instead of “will,” we would suggest maintaining the “may” language. With the adoption of the globally harmonized system for hazard communication, especially in chemical consumer products, the “may” accompanied by the required hazards communications provide ample warning and guidance to users to minimize risks associated with chemical use.
2. The use of the international hazard warning symbol colloquially called the “exploding chest” should not be required beyond what will be required by GHS. The reason for this suggestion is that in situations where GHS elements are not required (for example an article such as an NSF61/372 listed and California acceptable ice maker valve that contains 0.2% lead) the language and symbol could cause great confusion and concern. A regulation or label that few understand in its entirety is not likely to be successful.

3. The font size requirements for the word “WARNING” are not always feasible. Many products already have label requirements from vendors, other laws or customers that reduce available space, especially on smaller sized packages. So a size minimum may be infeasible. But, we do agree with the requirements that WARNING should be in a bold font, and we also believe something should be done to distinguish the statement from other label text. As such, we would propose maintaining the bold face type for WARNING as well as requiring some distinction between the warning statement and the rest of the label verbiage. This could be spacing, type style or some other method to be discussed.

4. Making the warning statement bilingual is not always practical either. Again, there is a potential space constraint issue. Additionally and perhaps more importantly, California has one official state language – English. Making a legal requirement for multilingual labeling does not seem to be consistent with that requirement.

Again, thank you for the opportunity to comment. Oatey looks forward to and desires dialogue directly with Staff on this matter as the rule development process moves forward. Please feel free to contact me via phone or email as listed in the letterhead should you wish to discuss.

Sincerely,

Michael Schmeida, MSc, LEED™-AP™
Corporate Manager – Stewardship
Oatey Company

Cc: File