



Environment, Land Use & Natural Resources ADVISORY ■

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Selling into California and Using the Prop 65 Short-Form Warning? *Pay attention – your labeling may need to change very soon!*

By Maureen Gorsen and Megan Ault

All manufacturers and sellers of products into California, many if not most of whom switched over all their Proposition 65 labels [in 2018](#) to comply with the then-new Prop 65 short-form warning, may need to redo all their labeling again very soon. Also, many of the advantages of using the short-form warning may soon be eradicated.

On January 8, the California Office of Environmental Health Hazard Assessment (OEHHA) issued a [Notice of Proposed Rulemaking](#) for amendments to the state's regulations for short-form Prop 65 safe harbor warnings. All businesses presently relying on short-form warnings should take note of the state's proposal because the amendments involve broad changes to how the warnings are written and applied.

What Is Being Proposed?

The [proposed amendments](#) will impose updated short-form warning requirements, replacing those that went into effect in August 2018.

Key changes include:

- Requiring that short-form warnings now name at least one Prop 65 listed chemical.
- Restricting the use of short-form warnings to products with no more than 5 square inches of label space.
- Eliminating the ability of Internet and catalog postings to rely on short-form warnings.
- Clarifying the application of short-form warnings for food exposures.

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What Are the Justifications for These Changes?

OEHHA [indicates](#) that the proposed amendments seek to address business and consumer confusion over the existing short-form warning requirements.

Specifically:

- Identification of a Prop 65 listed chemical is intended to reduce consumer inquiries to OEHHA and discourage use of the short-form warnings as a prophylactic when businesses lack knowledge of a specific chemical exposure.
- The changes are also intended to discourage overuse of short-form warnings by restricting application to only those products with very limited label space and eliminating the short-form warning option for Internet and catalog listings.
- Businesses applying short-form warnings for food exposures will now have a food-specific short-form standard to follow.

How Do I Follow Along or Participate in the Process?

OEHHA will be collecting public comments on the proposed amendments until **Monday, March 8, 2021**. Interested parties can also request a public hearing on the proposed amendments if their request is submitted to OEHHA before **February 22, 2021**.

Instructions for submitting comments and hearing requests can be found on [OEHHA's website](#).

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