

# California Proposes to Minimize Use of Prop 65 Short-Form Warning

Joseph J. Green

January 14, 2021

A popular option for satisfying Proposition 65 warning requirements, the so-called "short-form" warning, is likely to be significantly curtailed in light of a January 8th proposal from the California Office of Environmental Health Hazard Assessment (OEHHA). Originally conceived as an option for products with limited label space, the 2016 amendments that fundamentally re-wrote the Prop 65 warning provisions did not actually restrict on-product use of the short-form warning. Over the last few years, the short-form warning has proliferated as companies like the fact that it takes up less label space and also does not require identification of the specific chemical for which the warning is being provided.

In issuing the January 8 proposal, OEHHA cited these same reasons for revisions that will greatly restrict use of the shorter warning. In particular, the agency laments the fact that products with ample label space are using the short-form, and is concerned that the widespread use of the short-form has resulted in the provision of less information to the consumer. The agency also believes that the short-form warning (and the fact that it does not require identification of a listed chemical causing the problematic exposure) is contributing to "over-warning," in which companies provide a prophylactic warning without conducting an assessment of whether there is an actual risk of exposure.

Accordingly, the proposal would:

- (1) Restrict short-form warnings to products with 5 square inches or less of label space (and the package shape or size cannot accommodate the full-length warning). The provision retains the requirement that the short-form warning type size be no smaller than "the largest type size used for other consumer information on the product," and no smaller than 6-point type.
- (2) Eliminate use of the short-form warning in catalogues and on websites (which has been allowed for products that utilize a short-form warning on-product).
- (3) Require the short-form warning to identify at least one chemical for which the warning is being provided.

Currently, short-form warnings look like:



**WARNING:** Cancer and Reproductive Harm - [www.P65Warnings.ca.gov](http://www.P65Warnings.ca.gov)

If finalized, the new short-form warnings would be somewhat wordier and provide more information:



**WARNING:** Risk of Cancer and Reproductive Harm From [Name of one or more chemicals known to cause cancer and reproductive toxicity] Exposure - [www.P65Warnings.ca.gov](http://www.P65Warnings.ca.gov)

OEHHA proposes to provide a one-year phase-in period for companies to adopt the new short-form warning (or replace it with the full long-form warning, as the case may be). Companies also would be allowed an indefinite period to sell through product that currently bears the "old" short-form warning.

OEHHA also clarifies in the proposal that the short-form warning may be used for food products, which was the subject of numerous questions to the agency over the last few years.

Comments to OEHHA are due by March 8, 2021. More information on the proposal can be found on [OEHHA's website](#).