

Prop 65 Battle Royale over Glyphosate: EPA vs. OEHHA

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The California Office of Environmental Health Hazard Assessment (OEHHA), which administers Proposition 65, wasted no time in punching back at the U.S. Environmental Protection Agency (EPA), which declared, in an August 8 press release, that Prop 65 labeling identifying the pesticide glyphosate as a carcinogen is false and misleading and that EPA would not approve such statements on product labels. The EPA press release -- provocatively titled "EPA Takes Action to Provide Accurate Risk Information to Consumers, Stop False Labeling on Products" -- derided the Prop 65 listing decision for glyphosate and launched a broadside against the infamous regulatory program, asserting:

"The State of California's much criticized Proposition 65 has led to misleading labeling requirements for products, like glyphosate, because it misinforms the public about the risks they are facing. This action will ensure consumers have correct information, and is based on EPA's comprehensive evaluation of glyphosate."

Today, in response, OEHHA [shot back in a statement](#), defending its listing decision as based on the findings of the International Agency for Research on Cancer (IARC) and objecting to EPA's characterization of the listing as a "false claim":

"US EPA's assertion is based on its view that glyphosate is not likely to cause cancer in humans. That position conflicts with the determination made by IARC and its scientific panel, which included experts from the US National Cancer Institute, US EPA and the U.S. National Institute of Environmental Health, who carefully evaluated the extensive scientific evidence on glyphosate's carcinogenicity. It is disrespectful of the scientific process for US EPA to categorically dismiss any warnings based on IARC's determinations as false."

OEHHA defends Prop 65 as a "right-to-know statute ... that ensures consumers receive accurate, science-based information on chemicals," and further contends that the chemical listing does not require EPA to take any action regarding glyphosate. However, this is a tad disingenuous as OEHHA knows full well that EPA has authority over pesticide labeling, though it is novel for EPA to call out a scientific dispute over a chemical classification as a "false claim." Of course, the backdrop to all of this is the constitutional challenge under the First Amendment to the required Prop 65 warnings for glyphosate in the pending case, *National Association of Wheat Growers, et al., v. Lauren Zeise, et al.*

This is getting very interesting