

May 24, 2021

Ms. Monet Vela  
Office of Environmental Health Hazard Assessment  
1001 I Street, 23rd Floor  
P. O. Box 4010  
Sacramento, California 95812-4010

RE: Proposed Amendments to Clear and Reasonable Warning Under Prop. 65

Ms. Monet:

Cresco California must respectfully oppose the proposed amendments to Article 6, Clear and Reasonable warnings under Proposition 65 by the California Office of Environmental Health Hazard Assessment (OEHHA). While Cresco California strongly supports the OEHHA's goal of protecting the health and welfare of California's residents through clear safety warnings, the proposed safe harbor warnings for cannabis (marijuana) smoke and delta-9-tetrahydrocannabinol (delta-9-THC) exposures simply do not advance those aims. Indeed, enacting the proposed regulations will only serve to burden operators with warnings that are already captured by current packaging/labels, likely resulting in noncompliance and further discouraging participants in the illicit market from becoming compliant.

Current regulations governing the California Cannabis industry are among the most stringent in the nation for consumer products and already ensure California residents are well protected. Specifically, the short form Proposition 65 warning currently used on cannabis packaging/labels includes the core content of the proposed longer warnings, including a warning symbol, the word "warning" in bold capital letters, a statement indicating a potential health impact (potential cancer and reproductive harm), and a clear web link that indicates the address for the state's Proposition 65 web page. Beyond the short form warning, operators are required to disclose the following on cannabis products:

- Compounds
- Containments
- Cannabinoid Content
- Expiration Dates

Without question, consumers and patients should receive comprehensive information about cannabis products. However, the explicit warning that is already on cannabis products through the short form warning language achieves that goal. Consumers and patients interested in more information about products, including the basis for the Proposition 65 Warning, can easily obtain such information by visiting the state's Proposition 65 Warning Website which is the best way to increase consumer and patient understanding. Achieving greater consumer and patient

understanding of the Proposition 65 Warning and/or access to the Proposition 65 Warning Website is not enhanced by lengthening the warning required to be printed on packaging/labels. Accordingly, operators should not be forced to redesign packaging/labels to include a long form warning that does not reasonably improve consumer and patient understanding of the warning.

Requiring operators to alter packaging/labeling to comply with the proposed regulations will only serve to burden operators with the cost of implementing such changes. As a result, otherwise compliant operators may be driven into noncompliance. Further, imposing these additional packaging/labeling obligations will negatively impact the entry of legal operators into the industry, encouraging the proliferation of the illicit market that poses a true risk to the health and welfare of California residents and does not contribute to the economic vitality of California.

Moreover, in light of the pending consolidation of the three primary regulatory agencies—the Bureau of Cannabis Control (BCC), the Department of Food and Agriculture (CDFA) and the Department Health (CDPH)—into the Department of Cannabis Control, it would be prudent for the OEHHA to delay implementation of these new packaging/labeling requirements to permit the new, consolidated regulator to opine on this issue. Given this regulatory uncertainty, the strict health and safety standards already protecting California residents, including the short form Proposition 65 warning, any amendments to Article 6 are premature and unnecessary.

Thank you for the opportunity to comment on these proposed regulations. Cresco California welcomes the opportunity to provide the OEHHA with any additional feedback or information.

Sincerely,

A handwritten signature in black ink, appearing to read "John Sullivan". The signature is fluid and cursive, with a prominent initial "J" and "S".

John Sullivan  
Executive Vice President, Public Affairs  
Cresco California