

**CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT**

SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986

**NOTICE OF MODIFICATION TO PROPOSED REGULATION AND ADDITION
OF DOCUMENTS TO RULEMAKING FILE**

**TITLE 27, CALIFORNIA CODE OF REGULATIONS
NEW SECTIONS 25607.48 AND 25607.49**

**ARTICLE 6 CLEAR AND REASONABLE WARNINGS
WARNINGS FOR EXPOSURES TO GLYPHOSATE FROM CONSUMER
PRODUCTS**

April 13, 2022

Public Hearing Date: September 9, 2021

Public Availability Date: April 13, 2022

Deadline for Public Comment: April 28, 2022

The Office of Environmental Health Hazard Assessment (OEHHA) is providing notice of modifications made to a previously proposed regulation, Title 27, California Code of Regulations, new sections 25607.48 and 25607.49 and addition of documents to the rulemaking file. It is providing this notice pursuant to Government Code sections 11346.8(c) and 11347.1(b), and Title 1, California Code of Regulations, section 44.

OEHHA first proposed the regulation by publishing a Notice of Proposed Rulemaking in the California Regulatory Notice Register (CRNR) on July 23, 2021¹. In parallel, OEHHA issued an Initial Statement of Reasons (ISOR) for the proposal.

OEHHA provided a 76-day comment period on the original proposal, extending from July 23 to October 7, 2021. It held a public hearing on September 9, 2021.

Since the close of the comment period, OEHHA has determined modifications of the original regulatory text are needed. In addition, OEHHA is relying upon additional documents in this rulemaking and is adding these documents to the

¹ CRNR 2021, Number 30-Z; Notice File Number Z2021-0713-02

rulemaking file. The purpose of this notice is to provide the public with notice of (1) the modified proposed regulatory text and (2) the additional documents included in the rulemaking file, and to open a 15-day public comment period, running from April 13, 2022, through April 28, 2022. Consistent with the Administrative Procedure Act, OEHHA will only address comments received during this comment period that address the modifications to the text of the proposed regulation or documents added to the record. Details on how to submit comments are provided below.

In the Final Statement of Reasons, OEHHA will respond to all comments received during the comment periods on the original July 2021 proposal and on the modified proposal.

Summary of Proposed Modifications

OEHHA is modifying proposed Section 25607.49, subsection (a)(3) as shown below. Additions and deletions to the proposed text are shown in double-underline (example) and strike-out (~~example~~), respectively.

(3) The words, “Using this product can expose you to glyphosate. The International Agency for Research on Cancer classified glyphosate as probably carcinogenic to humans. US EPA has determined that glyphosate is not likely to be carcinogenic to humans; other authorities have made similar determinations. ~~Other authorities, including USEPA, have determined that glyphosate is unlikely to cause cancer, or that the evidence is inconclusive.~~ A wide variety of factors affect your potential personal cancer risk, including the level and duration of exposure to the chemical. For more information, including ways to reduce your exposure, go to www.P65Warnings.ca.gov/glyphosate.”

A copy of the full proposed regulatory text (new sections 25607.48 and 25607.49), reflecting the modification, is provided as [Attachment 1](#).

During the comment period on the original proposal, OEHHA received comments regarding the description of the conclusions by various scientific bodies regarding the carcinogenicity of glyphosate.² OEHHA is addressing the points raised in these comments by: (1) separating the description of the conclusion reached by the U.S. Environmental Protection Agency (US EPA) from the description of the conclusions reached by other authorities; (2) more closely

² The [ISOR](#) describes the authorities’ conclusions in fuller detail.

aligning the description of the conclusion reached by US EPA with the language US EPA used in its conclusion; and (3) changing the modifier of the term “risk” in a manner that accounts for the diverging conclusions US EPA and other authorities reached.

Over the years, OEHHA has worked with US EPA to facilitate pesticide registrants receiving permission from US EPA to add Proposition 65 warnings to pesticide product labels.^{3 4} Given this past coordination, OEHHA sought input from US EPA on whether it could approve the warning language as set forth in this modified proposal, if a pesticide registrant requested approval to include such language on labels of products containing glyphosate sold in California⁵. US EPA responded that it could approve the proposed language. Specifically, US EPA indicated that⁶

“it has determined that the new glyphosate-specific safe harbor language proposed in OEHHA’s recent letter is sufficiently clear regarding EPA’s position and thus would not be considered false and misleading. Therefore, this revised language could be approved by EPA if pesticide registrants requested it for inclusion on glyphosate product labels, and the products would not be considered misbranded.”

OEHHA is adding the correspondence⁷ with US EPA referenced above to the rulemaking file as documents relied on for this rulemaking.

Documents Added to the Record

In the interest of completeness and in accordance with Government Code section 11347.1, subdivision (a), OEHHA has also added to the rulemaking record the following documents to those it relies in this rulemaking:

³ Title 27, Cal. Code of Regs., Subsection 25603(d), provides that for a Proposition 65 warning on a pesticide product label regulated by US EPA “the word “**ATTENTION**” or “**NOTICE**” in capital letters and bold type may be substituted for the word “**WARNING**” “.

⁴ US EPA Office of Pesticide Programs, Label Review Manual, Chapter 7 (Revised March 2018) section IV.A.4 states “California’s Proposition 65 may require the term “warning” be used on a label. However, registrants should use the term “notice” or “attention” instead, so that it does not conflict with the EPA required Signal Word.”

⁵ OEHHA, letter from Lauren Zeise, Director, to Michal Freedhoff, US EPA Assistant Administrator, Office of Chemical Safety and Pollution Prevention, March 21, 2022.

⁶ US EPA Office of Chemical Safety and Pollution Prevention, letter from Michal Freedhoff, Assistant Administrator, to Lauren Zeise, OEHHA Director, April 8, 2022.

⁷ Freedhoff April 8, 2022 letter; Zeise March 21, 2022 letter.

- US EPA Office of Pesticide Programs, Label Review Manual, Chapter 7 Precautionary Statements (Revised March 2018), section IV Determining the precautionary labeling, Part A, Signal word, [Section 4 Related information on Proposition 65 warnings, page 7-4](#).
- [OEHHA, letter from Lauren Zeise, Director, to Michal Freedhoff](#), US EPA Assistant Administrator, Office of Chemical Safety and Pollution Prevention, March 21, 2022.
- [US EPA Office of Chemical Safety and Pollution Prevention, letter from Michal Freedhoff, Assistant Administrator, to Lauren Zeise](#), OEHHA Director, April 8, 2022.
- [US EPA Office of Chemical Safety and Pollution Prevention, Letter from Michael L. Goodis](#), Director Registration Division, Office of Pesticide Programs, to registrants of products that contain glyphosate, Aug. 7, 2019.

Copies of these materials are available through links provided above or on OEHHA's website at <https://oehha.ca.gov> or on request as provided below.

Submission of Public Comments

All written comments must be submitted to OEHHA by electronic submission, mail, or hand-delivery, by **April 28, 2022**, as indicated below. OEHHA strongly recommends that comments be submitted electronically through our website at <https://oehha.ca.gov/comments>, rather than in paper form. Alternatively, comments can be submitted in paper form, by either mail or delivered in person.

Electronic Submission (preferred):

Through OEHHA website at: <https://oehha.ca.gov/comments>

Mailed Submission:

Attention: Monet Vela
Office of Environmental Health Hazard Assessment
P. O. Box 4010
Sacramento, California 95812-4010

In-person delivery submission:

Attention: Monet Vela
Office of Environmental Health Hazard Assessment

1001 I Street, 23rd Floor
Sacramento, California 95814

OEHHA encourages all commenters to submit their comments in a format compliant with Section 508 of the federal Rehabilitation Act, Web Content Accessibility Guidelines 2.0⁸ and California Government Code sections 7405 and 11135, so that they can be read using screen reader technology and those with visual impairments are able to listen to them.

Inquiries concerning the action described in this notice may be directed to Monet Vela, in writing at the address given above, by email at Monet.Vela@oehha.ca.gov, or by telephone at (916) 323-2517.

⁸ <https://www.w3.org/WAI/standards-guidelines/wcag/>