



June 28, 2024

Submitted through <https://www.oehha.ca.gov/comments>

Lauren Zeise, Director
Office of Environmental Health Hazard Assessment
P. O. Box 4010
1001 I Street
Sacramento, CA 95812-4010

RE: Proposed Amendments to Regulations Clear and Reasonable Warnings, Safe Harbor Methods and Content

Dear Ms. Zeise:

The Alliance for Automotive Innovation (Auto Innovators)¹ appreciates the opportunity to provide comments on OEHHA's 15-day changes to the Proposed Amendments to Regulations Clear and Reasonable Warnings, Safe Harbor Methods and Content.

Auto Innovators represents the auto manufacturing sector, including automakers that produce and sell around 95% of the new light-duty vehicles in the United States. Our mission is to work with policymakers to realize a future of cleaner, safer, and smarter personal transportation and to work together on policies that further these goals, increase U.S. competitiveness, and ensure sustainable, well-paying jobs for citizens throughout the country.

We appreciate the opportunities that you and your staff have provided to engage in the development of a tailored warning for automotive replacement parts and continue to offer our support for the "Passenger or Off-Highway Motor Vehicle Parts Exposure Warnings" proposals. The approach put forward in this notice is workable and will not only accomplish OEHHA's goals for consumer awareness but also address the realities of applying Prop 65 requirements to hundreds of thousands of automotive replacement parts. This proposal reflects the common ground that can be found when regulators and representatives from the industrial sector work together to craft approaches that address environmental concerns and workability issues for the regulated community.

A. Consumer Product Exposure Warnings – Methods of Transmission.

Auto Innovators supports OEHHA's proposed deletion of the proposed section 25602(b)(2) and its replacement with the revised proposed section 25602(b)(2) in the internet purchases subsection. Auto Innovators was confused by that provision and would be pleased to see it removed. We also support the similar proposed change to the catalog purchase requirements in section 25602(c).

¹ From the manufacturers producing most vehicles sold in the U.S. to autonomous vehicle innovators to equipment suppliers, battery producers and semiconductor makers – Alliance for Automotive Innovation represents the full auto industry, a sector supporting 10 million American jobs and five percent of the economy. Active in Washington, D.C. and all 50 states, the association is committed to a cleaner, safer, and smarter personal transportation future. www.autosinnovate.org.

Our understanding is that OEHHA's goal in the 15-day changes is to "revert to the original regulation text for most of the internet and catalog warning content."² It appears that OEHHA's intent under the "original regulation text" for internet sales is to require both an internet warning as well as labeling of the product in order to comply with the regulations³; presumably this is what OEHHA seeks with their 15-day changes, but in the opinion of Auto Innovators it is not clear. OEHHA should clearly state in its FSOR whether products sold over the internet with electronic warnings would also require a label. For what it is worth, Auto Innovators does not support having both an electronic warning and a label requirement as labeling for products is burdensome and we believe the electronic warning is sufficient.

Finally, Auto Innovators also supports the three-year timeframe proposed for compliance with new requirements found in the new subsection (b)(2) as this will allow adequate time for transitions.

B. Passenger or Off-Highway Motor Vehicle Parts Exposure Warnings – Content

Auto Innovators continues to support in particular the proposed language in section 25607.51(a)(3), which would provide adequate warning to consumers while alleviating the need to test hundreds of thousands of replacement parts. We also continue to support the proposed option to use either the tailored warning in section 25607.51 or the more generic warning detailed in section 25603. This would provide a degree of flexibility that allows the automotive sector to choose the most effective and efficient approach to warnings. Finally, we also support the option outlined in section 25607.51(b) to allow for the substitution of a chemical name in the warning if the product will not expose a consumer to lead or phthalates at a level that requires a warning, as it also provides flexibility to the responsible entities.

Again, we appreciate the collaborative approach that is reflected in this proposal. Please reach out to us if you have any questions or comments or would like to discuss.

Sincerely,



Catherine Palin
Senior Attorney & Director of Environmental Policy
Alliance for Automotive Innovation

² Notice of Modification to Text of Proposed Regulation Title 27, California Code of Regulations, Proposed Amendments to Article 6 Clear and Reasonable Warnings – Safe Harbor Methods and Content (June 13, 2014), <https://oehha.ca.gov/media/downloads/crn/notice061324.pdf>.

³ "To comply with the safe harbor provision for internet purchases, a business would need to use one of the methods described in Section 25602, subsections (a)(1)(4) and also provide an internet warning prior to the completion of the purchase of the item, as described in Section 25602(b). As an example, a business could provide a warning label on the product and post a photograph of that warning label on the website so that the purchaser sees the warning on the website prior to completing the purchase." Proposition 65 Clean and Reasonable Warnings Questions and Answers for Businesses: Internet and Catalog Warnings (Mar. 2018), https://www.p65warnings.ca.gov/sites/default/files/art_6_business_qa_internet_warnings.pdf.