



RUBBER
manufacturers
association

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June 6, 2016

Monet Vela
Office of Environmental Health Hazard Assessment
1001 I Street, 23rd Floor
Sacramento, California 95814

RE: 15 Day Notice of Modification to Text of Proposed Regulation – Title 27, California Code of Regulations, Proposed Repeal of Article 6 and Adoption of New Article 6, Proposition 65 Clear and Reasonable Warnings

RMA is the national trade association representing major tire manufacturers that produce tires in the United States, including Bridgestone Americas, Inc., Continental Tire the Americas, LLC; Cooper Tire & Rubber Company; The Goodyear Tire & Rubber Company; Michelin North America, Inc.; Pirelli Tire North America; Toyo Tire Holdings of Americas Inc. and Yokohama Tire Corporation. RMA members thank the California Office of Environmental Health Hazard Assessment (OEHHA) for consideration of these comments on the Modification to Text of Proposed Rulemaking to Article 6 in Title 27 of the California Code of Regulations pursuant to the Safe Drinking Water and Toxic Enforcement Act (Proposition 65) dated May 20, 2016 (Proposed Regulation).

RMA appreciates the changes OEHHA incorporated into the May 20, 2016 proposal. Specifically, RMA supports the changes that OEHHA made to section 25601 including the deletion of the words “person has determined a warning is required.” However, RMA has continued concern that the proposed changes (1) do not clarify in section 25601(b) what is meant by the phrase “one or more” and (2) do not clarify in section 25602(a)(2) the phrase “seek out the warning.” RMA incorporates by reference our comments dated April 26, 2016.

I. RMA recommends that OEHHA clarify what is meant by the phrase “one or more” in section 25601(b).

The language in section 25601(b) creates confusion regarding the number of substances that must be included on a warning. Specifically, section 25601(b) specifies that “where a warning is being provided for more than one endpoint (cancer and reproductive toxicity) the warning must include the name of one or more chemicals for each endpoint, unless the named chemical is listed as known to cause cancer and reproductive toxicity and has been so identified in the warning.” The use of the phrase “one or more” may create confusion whether a warning needs to include all of the chemicals for each endpoint for which the warning is being provided. RMA recommends that OEHHA edit this section to clarify that to meet the safe harbor requirements, only one chemical name for each endpoint is required on a warning and businesses have the discretion to choose which chemical to include on the warning.

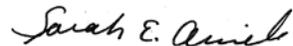
II. RMA recommends that OEHHA clarify what is meant by the phrase “seek out the warning” in section 25602(a)(2)

Section 25602(a)(2) specifies that “a product-specific warning provided via any electronic device or process that automatically provides the warning to the purchaser prior to or during the purchase of the consumer product, without requiring the purchaser to seek out the warning.” RMA has concern that the phrase “without requiring the purchaser to seek out the warning,” could create confusion without additional clarification. It is unclear whether a warning that is located on an electronic device at a retail store or service center that a customer must initiate using on their own to view the warning, would be considered “seeking out the warning.” RMA recommends that OEHHA clarify the term “seek out the warning” to avoid unnecessary litigation over the phrase “seek out the warning.”

III. Conclusion

RMA again thanks OEHHA for this opportunity to comment on these proposed revisions to Proposition 65. Please contact me at (202) 682-4836 if you have questions or require additional information.

Respectfully Submitted,



Sarah E. Amick
Senior Counsel
Rubber Manufacturers Association