



## ***California New Car Dealers Association***

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January 22, 2016

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

### **RE: Proposition 65 Clear and Reasonable Warning Proposed Regulations**

Dear Ms. Vela:

The California New Car Dealers Association (CNCDA) is a statewide trade association that represents the interests of over 1,100 franchised new car and truck dealer members. CNCDA members are primarily engaged in the retail sale and leasing of new and used motor vehicles, but also engage in automotive service, repair and part sales.

We are writing to you regarding the proposed regulations addressing the “clear and reasonable warnings” mandated by Proposition 65. CNCDA and its members thank you for the opportunity to provide comments to OEHHA. This letter addresses specific concerns unique to CNCDA’s members. However, CNCDA is also a signatory to the California Chamber of Commerce’s comments and incorporates those comments by reference herein.

We first would like to reiterate that we appreciate OEHHA’s outreach to date to the regulated community and appreciate the opportunities we have had to participate in the regulatory process. The proposed regulations represent a major improvements from the pre-regulatory proposal and clearly reflect input from the regulated industry representatives.

CNCDA continues to have a few concerns regarding the proposed regulations. We reiterate our prior concerns regarding the vague nature of the non-English warning. In addition, we raise a new concern regarding zero emissions vehicles not previously addressed in CNCDA comments.

### **Current Vehicle Exposure Warnings Do Not Account for Zero-Emissions Vehicles**

Proposed section 25607.17 requires a warning that both includes engine exhaust and carbon monoxide in the list of chemicals and recommends that “[t]o minimize exposure, avoid breathing exhaust, [and] service your vehicle in a well-ventilated area. . . .” These recommendations are appropriate for traditional combustion engine vehicles and mirror language currently used in warnings provided by CNCDA members. However, the warnings do not account for zero-emissions vehicles. Further, while section 25607 subsection (b) would allow manufacturers to remove references to engine exhaust and carbon monoxide when appropriate for warnings on zero-emissions vehicles, it would not allow them to remove the use recommendations that address breathing in such chemicals.

California franchised car dealers are committed to the goals of increasing the percentage of zero-emissions vehicles on California roads. We therefore request that OEHHA amend either section 25607 or section 25607.17 to allow for warnings that do not contain inappropriate references to exposures to chemicals from zero-emissions vehicles and do not contain confusing and contradictory use recommendations. This simple goal can be achieved either by amending language of section 25607(b) to allow for the removal of use recommendations that accompany an inapplicable chemical or by amending 25607.17 to exclude zero-emissions vehicles from the larger group of passenger vehicles. To that end OEHHA could rely on Health and Safety Code section 44258 subsection (d), which states “Zero-emissions vehicle’ means a vehicle that produces no emissions of criteria pollutants, toxic contaminants, and greenhouse gases when stationary or operating, as determined by the state board. Either approach will give manufacturers the opportunity to craft warnings that more accurately reflect what, if any, exposures consumers may experience in operating and owning a zero-emissions vehicle.

### **The Non-English Warning Requirement is Vague**

CNCDA echoes the concerns raised by the California Chamber regarding providing warnings in languages other than English. Car dealerships in particular would face major problems in complying with these various requirements because the proposed regulations are vague. For example, does a non-English word in a product name trigger non-English warnings? While the ISOR notes that the intent is not to require a non-English translation for a product simply based on the product name, the regulation provides no definition for “consumer information”. Considering that the majority of vehicles sold in California are foreign-name brand vehicles, this lack of clarity is too important for our members to ignore. The requirement is simply too vague, while a definition of “consumer information” will prevent unintended litigation and confusion.

### **Conclusion**

Again, CNCDA appreciates OEHHA’s efforts to date on this important issue and we thank you for the opportunity to provide comments.

Sincerely,



Monica J. Baumann  
Director of Legal and Regulatory Affairs  
California New Car Dealers Association