



November 20, 2023

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

Re: SEMA Comments on OEHHA's Proposed Amendments to Article 6,
Clear and Reasonable Warnings, Safe Harbor Methods and Content

Dear Ms. Vela:

The Specialty Equipment Market Association (SEMA) appreciates this opportunity to comment on the Office of Environmental Health Hazard Assessment's (OEHHA) Proposed Amendments to Article 6, Clear and Reasonable Warnings, Safe Harbor Methods and Content. SEMA opposes the proposal since it makes significant changes to the Proposition 65 regulations that took full effect on August 30, 2018, following years of development through public discussion and collaboration.

SEMA represents the \$ 336.91 billion specialty automotive industry comprised of 7,000 primarily small businesses nationwide, including over 1,500 in California, that manufacture, retail, and distribute custom parts and accessories for motor vehicles. The industry produces performance, restoration, and enhancement parts for passenger cars and trucks, collector vehicles, racecars, and off-highway vehicles. Products range from wheels and tires to engines, exhaust systems, lighting equipment, suspensions, truck caps, leather seating, mobile electronics, and more.

SEMA and its members were disappointed on October 27, 2023, when OEHHA again proposed significant revisions to the Prop 65 short-form regulations. The agency had worked with the business community and other stakeholders for years to craft the Prop 65 revisions that took effect in 2018. The agency is now proposing to significantly alter a short-form warning option just five years after it took effect.

SEMA submitted comments in 2021 and 2022 urging OEHHA to abandon similar proposals. Other businesses, organizations, and the general public echoed that sentiment. Although the agency has modified the proposed revisions, SEMA urges the OEHHA to rescind the proposal for many of the same reasons SEMA previously identified.

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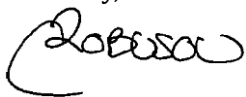
Like many other trade associations, SEMA has invested significant time and resources to disseminate information to its members about the Prop 65 regulations that took effect in 2018, including the option of providing short-form warnings. The data is posted on the SEMA website and conveyed via magazine articles, newsletters, and webinars. SEMA staff have spoken directly with members and consulting attorneys about the law.

While SEMA recommends that OEHHA withdraw the rulemaking, we also provide the following comments on the proposal.

- OEHHA has failed to acknowledge the investment of time, money, and resources needed for companies to understand the regulatory changes, retool product labeling, and revise catalogs and websites. These are direct costs. Companies struggle with supply-chain issues, inflation, and other marketplace realities. While federal, state, and local jurisdictions have sought to assist the business community in coping with these challenges, OEHHA seeks to impose another regulatory burden.
- SEMA member companies have taken actions to comply with the 2018 regulations, such as retooling their product labels, updating their websites, revising catalogs, and instructing downstream distributors and retailers. If OEHHA implements the proposed amendments, the business community must be reeducated and then take the necessary steps to comply. Meanwhile, bounty hunter attorneys will wait to pursue companies unaware of the new rules.
- The justification for taking such drastic action is insufficient, and SEMA members are concerned that the agency still intends to move forward despite an inadequate basis. In its Initial Statement of Reasons (ISOR), the agency admits that “OEHHA did not rely on any technical, theoretical, and/or empirical studies, reports, or documents as part of this rulemaking” (ISOR, p. 47). This admission should be sufficient to overturn the rulemaking.

SEMA respectfully urges OEHHA to withdraw its proposed short-form warning rule changes. Thank you for this opportunity to provide comments.

Sincerely,



Christian Robinson
Senior Director, State Government Affairs & Grassroots
Specialty Equipment Market Association