



January 3, 2024

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

Monet Vela  
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. Vela:

The Alliance for Automotive Innovation<sup>1</sup> (Auto Innovators) appreciates the opportunity to provide comments on OEHHA's 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 on the development of a tailored warning for automotive replacement parts, and offer our support for the "Passenger or Off-Highway Motor Vehicle Parts Exposure Warnings" proposal. The approach OEHHA put forward in this notice is workable and will accomplish not only OEHHA's goals for consumer awareness but also will address the realities of applying Prop 65 requirements to hundreds of thousands of automotive replacement parts.

We would like to offer comments for consideration on one area of the proposed rule. The proposed rule outlines the warnings required for online or internet sales of products, including the second warning to be delivered with the product to the recipient:

*§ 25602(b)(2) In addition, the warning must also be included: on or with the product when delivered to the consumer using one or more of the methods in Section 25602(a)(3) or Section 25602(a)(4); on labeling accompanying the product as defined in Section 25600.1(j); or as otherwise specified in Section 25607 et seq.*

As we have suggested in our past discussions, we recommend that electronic options be available to meet the warning requirement outlined in Section 25602(b)(2); indeed, at the public hearing on

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<sup>1</sup> 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](http://www.autosinnovate.org).

December 13, 2023, Chief Counsel Nelson Rowan stated: “The second component is to provide the warning on or with the product when it is delivered to the consumer. Example -- examples are label on the product, a warning affixed to the immediate packaging or wrapper, or on a package insert, **or provided electronically.**”<sup>2</sup> We agree wholeheartedly that the second warning “on or with the product” should be able to be transmitted electronically; however, none of the applicable or referenced regulatory text specifically permits this option. Auto Innovators believes that a consumer who orders a part online is more likely to view a warning transmitted via electronic means, and we suggest electronic options be added to 25602(b)(2) such as a timed-to-delivery text message and/or email to the recipient. Further, implementing a second warning as a label on a part or accompanying the part only for internet orders would add to logistical complexities and increase costs for online orders. We respectfully request that OEHHA consider adding at least one electronic option for the warning requirement in 25602(b)(2).

Thank you in advance for your consideration of this request; we would welcome the opportunity to discuss further.



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

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<sup>2</sup> Hearing Transcript at 9-10, *available at* <https://oehha.ca.gov/media/downloads/crn/shortformpublichearingtranscript122723.pdf>.