

June 28, 2024

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

Dear Ms. Vela:

The National Marine Manufacturers Association (NMMA) appreciates the opportunity to submit comments regarding the Office of Environmental Health Hazard Assessment's (OEHHA) Modification to Proposed Amendments to Regulations Clear and Reasonable Warnings, Safe Harbor Methods and Content. NMMA appreciates OEHHA's willingness to work with marine manufacturers to modify its original proposal of significant changes to the 'short form' Proposition 65 warning requirements as well as safe harbor language for recreational vessel parts and accessories.

By way of background, NMMA is the leading recreational marine trade association in North America. Recreational boating has a \$230 billion impact on our nation's economy, supporting more than 812,000 jobs and 36,000 businesses across the country. Recreational boat building is also a uniquely American industry with 95 percent of boats sold in the U.S. made in the U.S. In California, the recreational boating industry has a \$17.3 billion impact on the state's economy each year supporting over 48,000 jobs across 2,893 businesses.

Safe Harbor Language for Marine Parts and Accessories

NMMA supports the OEHHA proposed safe harbor language for marine parts and accessories. This language will effectively balance the protection of the health and safety of consumers with the need for workable requirements for marine manufacturers and small businesses.

Internet Purchases

NMMA supports the proposed language for internet purchases, including the newly proposed language allowing for a grace period of 60 days to come into compliance for retailers who receive a warning or written notice for an out-of-date warning label.

Paper Catalogues

NMMA continues to struggle with how to comply with Proposition 65 warnings in paper catalogues where space is very limited. The direction for internet resonates, but for paper catalogue purchases where space is limited OEHHA has identified a warning as compliant with this direction: "the warning must be provided in the catalogue in a manner that clearly associates it with the item being purchased."

The internet includes technology such as hyperlinks that are not available for paper catalogues. As forementioned, space in a paper catalogue is very limited. The term "clearly associates" is vague and open for critical interpretation, but as NMMA understands it for marine parts and accessories, a paper catalog would display the Safe Harbor Clear and Reasonable Warning label at the bottom

of the even/odd page, while the even/odd page directs the consumer to view the warning on said opposite page.

As the changes in this rule will become law, and that law will be primarily if not exclusively enforced by citizen lawsuits, it is important that direction as to what “clearly associates” means and that meaning needs to be clearly understood by the manufacturer, distributor, retailer, and most important the consumer.

Conclusion

NMMA appreciates OEHAA working with the NMMA on this important rulemaking, and we look forward to additional dialogue and clarification regarding Prop 65 warnings in paper catalogues.

If you have any questions about these comments, please contact me at ccrabtree@nmma.org.

Sincerely,



Clayton Crabtree
Director, Federal Government Relations
National Marine Manufacturers Association