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May 30, 2018

TO: ALL UNIFIED PROGRAM AGENCIES

FROM: BILL JONES, INSPECTION & ENFORCEMENT ISSUE COORDINATOR SENT VIA EMAIL

AUTO NATION WESTERN REGION MANAGEMENT, LLC.

This is to summarize (stipulated) injunctive provisions in the AN WESTERN REGION MANAGEMENT, LCC, statewide judgement dated February 26, 2018. This communique is to provide Unified Program Agencies (UPA’s) with injunctive provisions to compare with any future potential violations.

This is also to provide clear direction on what to do if future violations occur and where this information should be sent. For those jurisdictions that have active involvement by a local prosecutor, this is the point of contact to send subsequent non-compliance information. If your jurisdiction does not have active prosecutorial involvement, you are requested to provide the information to District Attorney Jeffrey F Rosen, Deputy District Attorney Bud Porter at (408) 299-7400 or District Attorney Nancy E. O’Malley, Deputy District Attorney Kevin Wong at (510) 383-8600.

What follows is a summary of the injunction provisions. For more detailed information, you are directed to the final court document referenced below (numbered as in the Final Judgement).

AUTO NATION WESTERN REGION MANAGEMENT LCC., Injunction Provisions (ref. Case No. 18CV323773, Stipulation for Entry of Final Judgement and Permanent Injunction dated 02/26/2018).

Defendants AUTO NATION WESTERN REGION MANAGEMEN, LLC., (a Delaware Corporation) shall comply with:

California Business and Professions Code (BPC):

Chapter 5 (§ 17200-17210): Enforcement

California Health and Safety Code (H&SC):

Chapter 6.5 (§25100-§25258.2): Hazardous Waste Control Law

Chapter 6.67 (§25270 - §25270.13): Aboveground Storage of Petroleum

Chapter 6.95 (§25500-§25519): Hazardous Materials Release Response Plans and Inventory

Injunctive provisions are summarized below. Defendants shall comply with each of the following provisions at all Auto Nation Western Region Management, LLC facilities:

4.1 Applicability

The provisions of this injunction are applicable to Defendants, their employees, officers, directors (to the extent such employees, officers, and directors are acting within the scope of their employment with and/ or duties to Defendants), successors, assigns, and to any and all persons (including partnerships, corporations, and other entities) acting under, by, through or on behalf of, or in concert with Defendants with actual or constructive knowledge of this injunction.

4.2 General Injunctive Provisions

Pursuant to the provisions of H&SC sections 25181, 25270.12, 25515.6, and 25515.8, and BPC section 17203, Defendants are permanently enjoined from violating Chapters 6.5, 6.67, and 6.95 of Division 20 of the H&SC and the regulations promulgated under these chapters, and from violating Civil Code section 1798.81. Notwithstanding any other provisions in this Final Judgement, nothing in this Final Judgement shall relieve Defendants from prospectively complying with any and all applicable laws and regulations, nor shall any term of this Final Judgement extend to any facilities outside the State of California.

4.3 Specific Injunctive Provisions

Pursuant to H&SC sections 25181, 25270.12, 25515.6, and 25515.8, and B&PC section 17203, each Operating Defendant (OD) is enjoined, restrained, and prohibited from doing any of the following at any of OD's Facilities:

4.3.a. Disposing, or causing the disposal, of hazardous waste at a point not authorized by law, in violation of H&SC sections 25189 and 25189.2, including, but not limited to, the disposal of hazardous waste into any trash container, dumpster, or compactor at the Facilities, or causing the disposal of hazardous waste at a transfer station of landfill that is not permitted to accept hazardous waste;

4.3.b. Transporting, transferring custody of, or causing to be transported in California any hazardous waste unless the transporter is registered to transport hazardous waste, as required by H&SC §25163;

4.3.c. Failing to determine if a waste generated at the Facilities is a hazardous waste, as required by California Code of Regulations("CCR"), Title 22, sections 66262.11 and 66260.200(c);

4.3.d. Failing to properly mark, label, and store containers and tanks of hazardous waste at the Facilities, as required under CCR, Title 22, section 66262.34;

4.3.e. Storing and accumulating hazardous waste at the Facilities beyond the time limits permitted by law and as required by CCR, Title 22, section 66262.34;

4.3.f. Failing to properly use and complete a uniform hazardous waste manifest prior to transportation of hazardous waste from the Facilities, as required by H&SC §25160.

4.3.g. Failing to timely file with the Department of Toxic Substance Control (“DTSC”) a hazardous waste manifest for all hazardous waste that is transported, or submitted for transportation, for offsite handling, treatment storage, disposal, or any combination thereof, from any Facility, as required by H&SC §25160(b)(3) and CCR, Title 22, section 66262.23;

4.3.h. Failing to contact the owner or operator of a designed facility that was to receive hazardous waste from the OD to determine the status of the hazardous waste, in the event the OD has not received a copy of the manifest signed by all transporters and the facility operator with thirty-five (35) days of the date the waste was accepted by the initial transporter, as required by H&SC §25160(b)(3) and CCR, Title 22, section 66262.42;

4.3.i. Failing to timely notify the DTSC by filing an exception report concerning a treatment, storage, or disposal facility’s failure to return any executed manifest, as required by H&SC §25160(b)(3) and CCR, Title 22, section 66262.43;

4.3.j. Failing to use proper consolidated manifesting procedures for each shipment of hazardous waste that meets the requirement for consolidated manifesting procedures, as required by H&SC §25160.2 and §25160.23, unless Operating Defendant chooses to follow and does follow the proper uniform hazardous waste manifest procedures and requirements in H&SC §25160 and §25161;

4.3.k. Failing to maintain copies of uniform hazardous waste manifests and consolidated manifests for three (3) years, as required by H&SC §25160.2(b)(3) and CCR, Title 22, section 66262.40;

4.3.l. Failing to maintain and operate each Facility to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment, as required by CCR, Title 22, section 66265.31;

4.3.m. Failing to properly close hazardous waste containers, as required by CCR, Title 22, section 66265.173;

4.3.n. Failing to conduct weekly inspections of hazardous waste storage containers at the Facilities, as required by CCR, Title 22, section 66265.174

4.3.o. Failing to segregate incompatible hazardous waste, as required by CCR, Title 22, section 66265.177;

4.3.p. Managing used paper oil filters as scrap metal, recyclable material, or non-hazardous waste, and otherwise violating the requirements of CCR, Title 22, section 66266.130;

4.3.q. Accumulating, storing, or causing the transportation of any used metal oil filter without first draining such filter of all free-flowing used oil, as required by CCR, Title 22, section 66266.130(c);

4.3.r Failing to properly manage universal waste, including but not limited to non-empty aerosol cans within the meaning of H&SC §25201.16, at the Facilities, as required by CCR, Title 22, section 66273.1 *et seq.*;

4.3.s. Failing to comply with employee training and record-keeping requirements, pertaining to the handling of hazardous waste, listed in CCR, Title 22, section 66265.16;

4.3.t. Failing to conduct daily inspections of hazardous waste tank systems, and keep written logs of such inspections, as required by CCR, Title 22, section 66265.195;

4.3.u. Failing to obtain and keep on file at each Facility, a written tank system integrity assessment, as required by CCR, Title 22, sections 66265.191 and 66265.192;

4.3.v. Failing to implement and maintain at each Facility a hazardous waste contingency plan, as required by CCR, Title 22, sections 66265.51- 66265.55;

4.3.w. Failing to prepare and implement a spill prevention control and countermeasure ("SPCC") plan at each Facility meeting the definition of a tank facility, as required by Chapter 6.67 of Division 20 of the H&SC and Part 112 of Subchapter D of Chapter I of Title 40 of the Code of Federal Regulations;

4.3.x. Failing to establish, implement, update, and submit, as required by Chapter 6.95 of Division 20 of the H&SC, a hazardous materials business plan ("HMBP"), for each Facility, meeting the requirements listed in H&SC §25505 and CCR, Title 19, section 2650 *et seq.*;

4.3.y. Failing to immediately report upon discovery any release or threatened release of any hazardous material at any Facility, as required by H&SC §25510 and CCR, Title 19, section 2631 *et seq.*;

4.3.z. Failing to take reasonable steps to dispose, or arrange for the disposal, of customer records containing personal information when the records are no longer to be retained by each Facility by first shredding, erasing, or otherwise modifying the personal information in those records to make it unreadable or undecipherable, as required by Civil Code section 1798.81.

4.4 Other Injunctive Provisions

Pursuant to the provision of H&SC sections 25181, 25515.6, and 25515.8, and B&PC section 17203, Defendants shall be mandated, in addition to any other requirements under the law, to comply with the following requirements, as follows:

4.4.a. California Environmental Health and Safety Director.

4.4.a.1 Western Region Defendant shall create a full-time position for a California Environmental Health and Safety ("EHS") Director who shall have the authority to determine how best to manage compliance at Operating Defendants' Facilities, and any dealership and collision centers in California that are acquired by AutoNation, Inc. after the effective date of this Final Judgement. Western Region Defendant shall fill the California EHS Director position for a period of not less than three years from the effective date of this Final Judgement Western Region

Defendant shall not be in the breach of this provision during any period that it is attempting to fill the California EHS Director position.

4.4.a.2 The responsibilities of the California EHS Director shall include the duty to review training records – including training rosters and training materials—on a quarterly basis to ensure each employee at each Facility has received the training required under the Final Judgement, including employees at dealerships and collision center in California that are acquired by AutoNation, Inc. after the effective date of this Final Judgement.

4.4.b. Training.

4.4.b.1. Each OD shall ensure training is provided to each of its employees who generates, stores, handles, or manages hazardous waste, on each provision listed in paragraph 4.3.a through 4.3.y, inclusive, in addition to any other training required by law or by this Final Judgement.

4.4.b.2. Each OD shall maintain personnel training documents and records as required by CCR, Title 22, section 66265.16, and by H&SC §2550(a)(4), for each of its employees whose training is required. For each training conducted to ensure compliance with Chapters 6.5 or Chapter 6.95 of Division 20 of the H&SC or the injunctive provisions of this Final Judgement, each OD shall maintain records that identify, at a minimum: the name and title of the person providing the training; the location where the training was conducted; the name, job description or title, and employee number of each employee who attended the training (or completed online training); the date(s) of the training and the employee's signature acknowledging attendance at the training (or proof showing online training was completed).

4.4.b.3. Each OD shall maintain a copy of each employee's training documents and records described in above paragraph 4.4.b.2 at each Facility controlled by OD where that employee provides any labor or services. Such records may be maintained electronically.

4.4.c. Customer Records.

4.4.c.1. Each OD shall maintain sufficient resources at each Facility controlled by the OD, including shred boxes, to ensure that its employees are able to shred, or arrange for the shredding of, customer records containing personal information prior to disposal, when the records are no longer to be retained by the Facility.

4.4.c.2. Each OD shall ensure training is provided to train each employee who handles customer records containing confidential customer information on the requirements of Civil Code section 1798.81.

If you have any questions, please feel free to call me at 323-890-4032 or email me at bill.jones@fire.lacounty.gov.