

From: [Bowlin, Tyler](#)
To: [P65Public Comments](#)
Subject: Section 25600.2 - Comments
Date: Tuesday, November 20, 2018 6:48:09 PM

To Whom It May Concern,

I write to comment on the Office of Environmental Health Hazard Assessment's ("OEHHA") proposal to amend Title 27, California Code of Regulations, section 25600.2, subsections (b), (c) and (f), *Responsibility to Provide Consumer Product Exposure Warnings*. Specifically, I write to point out an inconsistency that would be created by implementing OEHHA's proposed amendments, as currently proposed.

OEHHA's current proposal resolves certain ambiguities in section 25600.2, subsection (b), however, the proposal does nothing to resolve a similar ambiguity in subsection (i). The proposed amendment to subsection (b) acknowledges that certain manufacturers, producers, packagers, importers, supplier, and/or distributors may not be in privity with the retail seller. The proposed amendment to subsection (b) does so by allowing such a party to provide written notice and warning materials, if required, "to the authorized agent for the business to which they are selling or transferring the product...". Subsection (i) does not take such a consideration into account. Subsection (i) permits manufacturers, producers, packagers, importers, supplier, and/or distributors to enter into a written agreement allocating legal responsibility for providing a warning. However, subsection (i) only permits manufacturers, producers, packagers, importers, supplier, and/or distributors to enter into such a written agreement with the retail seller (i.e., not the "business to which they are selling or transferring the product"). As a result, only manufacturers, producers, packagers, importers, supplier, and/or distributors that sell products to "retail sellers" may enter into such written agreements. This ambiguity is exacerbated by the fact that the term "retail seller" in subpart (b) was revised.

The ambiguity in subsection (i) could be alleviated with a modification similar to that proposed for subsection (b). For example, subsection (i) could state:

Provided that the consumer receives a warning that meets the requirements of Section 25249.6 of the Act prior to exposure, the manufacturer, producer, packager, importer, supplier, or distributor of a product that may cause a consumer product exposure may enter into a written agreement with the ~~retail seller~~ business to which they are selling or transferring the product ~~of the product~~ to allocate legal responsibility among themselves for providing a warning for the product, which shall bind the parties to that agreement and which shall supersede the requirements of subsections (b), (c), (d), and (e).

Thank you for the opportunity to submit comments on this proposal.

Best,

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