

California Environmental Protection Agency
Office of Environmental Health Hazard Assessment

Changes Without Regulatory Effect pursuant to
Title 1 California Code of Regulations Section 100

Proposition 65
Title 27 California Code of Regulations
Article 6 Clear and Reasonable Warnings

On August 30, 2016, the Office of Administrative Law (OAL) approved the regulatory amendments submitted by the Office of Environmental Health Hazard Assessment (OEHHA) for Article 6 Clear and Reasonable Warnings, Title 27 Cal. Code Regs., Sections 25600 – 25607.31. The amendments will be effective August 30, 2018.

Several non-substantive changes to the regulatory text are necessary to correct grammatical syntax, punctuation, and provide internal consistency. Therefore, OEHHA requests that these changes without regulatory effect be made in accordance to Title 1, Cal. Code Regs., Section 100. The changes are identified as follows:

Section 25600

In subsection (a), strike “Subarticles 1 and 2,” as the specific reference is not necessary. This subsection already refers to Article 6 which necessarily includes Subarticles 1 and 2. The changes do not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision.

In subsection (b) change “its two-year effective date” to “August 30, 2018” to add specificity and eliminate the need to search out the ‘effective date’ of the regulation in order to determine compliance. The regulation will become operative two years from the date of adoption as was indicated in the Form 400 for this regulatory action (see attachment) and was incorporated within the history notes for these regulations in the California Code of Regulations. For the same reasons, in subsection (b) change “the effective date of this article” to the date “August 30, 2018.” These changes do not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision.

Section 25600.2

In subsection (a), change punctuation by adding a comma after “clear and reasonable warnings.” In subsection (b)(3) and (d), revise capitalization to change “Internet” to lowercase “internet” which is the preferred usage convention within the regulations.

Section 25602

In subsections (b) and (c) add “also” to emphasize the safe harbor warning method requirement to provide a warning for internet and catalog sales, respectively. The regulations require a business wishing to provide a safe harbor warning to use a combination of warning methods for internet and catalog sales, including the method described in subsection (a) and one of the specific warning method for internet or catalog sales described in Sections 25602(b) or (c). On p. 77 of the Final Statement of Reasons (FSR), we noted:

“...[f]or these reasons, OEHHA has established safe harbor warning methods for internet and catalog sales wherein a warning must be provided on the webpage or in the catalog as well as on the product.”

OEHHA additionally modified the regulatory text in response to comments about the requirement to provide an additional warning on a website or in a catalog. In the FSR, OEHHA discusses how the modifications were made in response to comments about a second warning requirement in 25602 for internet sales.¹ Specifically, OEHHA modified Section 25600.2(b) and (d) to require that the manufacturer pass internet warning materials along to the retailer, and in Section 25602(b) and (c) OEHHA added the ability for a business to use the “short-form” warning on the internet and catalogs in lieu of the longer warning, in addition to the label on the product. Section 25602(b) expressly states that “If an on-product warning is provided pursuant to Section 25602(a)(4) the warning provided on the website may use the same content as the on-product warning.” Similarly, 25602(c) provides, “If an on-product warning is being provided pursuant to Section 25602(a)(4), the warning provided in the catalog may use the same content as the on-product warning.” These change are consistent with the existing safe harbor warning requirement in the regulatory text; as such, the changes do not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision.

Section 25606

In order to be consistent with the preferred cross reference convention in the regulations, the term “sections” in subsection (b) has been modified to “Sections.” This change does not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision.

Sections 25607.10 and 25607.11

The captions “Raw Wood Product Exposure Warnings” have been modified to “Wood Dust Exposure Warnings” to correctly reflect that the warnings in these sections are for exposures to the listed substance “wood dust”, not raw wood. These changes do not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision.

¹ See, Final Statement of Reasons, at p. 116.

Section 25607.13

In subsection (a)(2)(B) add the word “the” before the term “on-product label” as a grammatical correction.

Sections 25607.16 and 25607.17

In subsection (a) and throughout both sections change the term “off-road vehicle” to “off-highway motor vehicle” to ensure consistency with the statute referenced in Vehicle Code Section 38012(b). The term “off-road vehicle” does not appear in Vehicle Code Section 38012(b) as such there is no alternative interpretation:

“(b) As used in this division, ‘off-highway motor vehicle’ includes, but is not limited to, the following:

- (1) A motorcycle or motor-driven cycle, except for any motorcycle that is eligible for a special transportation identification device issued pursuant to Section 38088.
- (2) A snowmobile or other vehicle designed to travel over snow or ice, as defined in Section 557.
- (3) A motor vehicle commonly referred to as a sand buggy, dune buggy, or all-terrain vehicle.
- (4) A motor vehicle commonly referred to as a jeep.
- (5) A recreational off-highway vehicle as defined in Section 500.”

The changes do not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision.

Section 25607.22

In order to be consistent with the preferred cross reference convention in the regulations, the term “sections” in subsection (b) has been modified to “Sections.” This change does not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision.