

**CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT**

SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986

NOTICE OF 2nd MODIFICATIONS TO PROPOSED TEXT

**PROPOSED AMENDMENTS TO ARTICLE 6
CLEAR AND REASONABLE WARNINGS**

TITLE 27, NEW SECTIONS 25607.38 - 25607.47

**CANNABIS (MARIJUANA) SMOKE AND DELTA-9-
TETRAHYDROCANNABINOL (DELTA-9-THC) EXPOSURE WARNINGS**

May 20, 2022

Public Hearing on Original Proposal: May 10, 2021

Public Availability of Modifications: May 20, 2022

Deadline for Public Comment: June 6, 2022

The Office of Environmental Health Hazard Assessment (OEHHA) is providing notice of modifications made to previously proposed amendments, Title 27, California Code of Regulations, new Sections 25607.38 – 25607.47. It is providing this notice pursuant to Government Code sections 11346.8(c) and 11347.1(b), and Title 1, California Code of Regulations, section 44.

Process to Date

OEHHA first proposed these new regulatory sections by publishing a Notice of Proposed Rulemaking in the California Regulatory Notice Register (CRNR) on March 19, 2021. In parallel, OEHHA issued an Initial Statement of Reasons for the proposal.

OEHHA provided a 45-day public comment period on the original proposal extending from March 19, 2021, through May 24, 2021. It held a public hearing on May 10, 2021.

After the close of the initial comment period, OEHHA determined that modifications of the proposed text were needed and published a notice of modification on its website and provided notice to all required parties on September 17, 2021. OEHHA provided a 15-day comment period on the modified text, extending from September 17, 2021, through October 8, 2021.

New Modifications to Proposed Regulation

OEHHA has determined that a second modification to the text is needed to provide further clarity regarding the phase-in of the new tailored safe harbor warnings for exposure to cannabis smoke and 9-tetrahydrocannabinol (delta-9-THC) from consumer products and for environmental exposures. The modifications clarify language originally proposed in the first modification released for comment in September 2021. They also replace subsection (c) of Sections 25607.38, 25607.40, 25607.42, and 25607.44, with new subsections (c) and (d) and replace subsection (c) of Section 25607.46 with a new subsection (c).

The modifications are to clarify that safe harbor warnings for consumer products are compliant for the first year after the regulation becomes effective, if they use posted sign, shelf tag, or shelf sign or electronic device or process (Sections 25602(a)(1) or (a)(2)) and the general consumer product content (in Sections 25603) *or*, alternatively, the proposed new tailored safe harbor warning methods and content (i.e., for products intended to be smoked - sections 25607.38 and 25607.39, for ingesting - sections 25607.40 and 25607.41, for vaping and dabbing - sections 25607.42 and 25607.43, and for dermal applications - sections 25607.44 and 25607.45). Further, safe harbor consumer product warnings being provided on the label using the method and content for the general consumer product warning (Section 25602(a)(3) and 25603(a)) or the short form version (Section 25602(a)(4)) are compliant for products manufactured up to one year after the effective date of the regulations. The clarifying language is set out in a new subsection (d) of Sections 25607.38, 25607.40, 25607.42, and 25607.44. These sell-through provisions clarify that products manufactured prior to one-year after the effective date of the regulations need not be relabeled.

Similarly, Section 25607.46 (c) provides that warnings for environmental exposures to cannabis and delta-9-THC in designated smoking, vaping and dabbing areas are compliant for one year after the effective date if they use the general safe harbor warning method and content (in Sections 25604 and 25605) or alternatively the new tailored warning methods and content (in Sections 25607.46 and 25607.47).

Additionally, there are minor, non-substantive modifications in wording and punctuation for consistency to proposed Sections 25607.38 through 25607.47.

A copy of the modified proposed regulatory text is attached. Originally proposed changes are indicated in plain text and bold text not underlined. The first set of

modifications to the originally proposed text are indicated in double underline for additions and double strikethrough for deletions. The second and newest set of modifications to the originally proposed text are indicated in **bold single underline** for additions and ~~**bold single strikethrough**~~ for deletions. The public may submit comments on all changes indicated in the attached text.

Rationale

This first modification of text released in September 2021 was proposed in response to public comments requesting a delayed effective date for the regulations and a sell through period for items previously labeled with compliant warnings. The modifications were intended to allow businesses a one-year period to transition to the new warnings if they choose to use them and provide an unlimited sell-through period for products manufactured prior to the one year after the regulation was adopted. The action was also intended to allow the use of the new safe harbor language during this one-year phase in period. The language in the first modification was not sufficiently clear and required modification since delaying the effective date could also be viewed as delaying the date the new language could be used with safe harbor protections.

Submission of Public Comments

All written comments must be submitted to OEHHA by electronic submission, mail, or hand-delivery, by **June 6, 2022**, as indicated below. OEHHA strongly recommends that comments be submitted electronically through our website at <https://oehha.ca.gov/comments>, rather than in paper form. Alternatively, comments can be submitted in paper form by mail or delivered in person.

Electronic Submission (preferred):

Through OEHHA website at: <https://oehha.ca.gov/comments>

Mailed Submission:

Attention: Monet Vela
Office of Environmental Health Hazard Assessment
P. O. Box 4010
Sacramento, California 95812-4010

In-person delivery submission:

Attention: Monet Vela
Office of Environmental Health Hazard Assessment

1001 I Street, 23rd Floor
Sacramento, California 95814

OEHHA encourages all commenters to submit their comments in a format compliant with Section 508 of the federal Rehabilitation Act, Web Content Accessibility Guidelines 2.0¹ and California Government Code sections 7405 and 11135, so that the comments can be read or listened to by people with visual impairments, including through the use of screen reader technology.

Inquiries concerning the action described in this notice may be directed to Monet Vela, in writing, at the address given above, or by telephone at (916) 323-2517.

¹ <https://www.w3.org/WAI/standards-guidelines/wcag/>