



Buy it for looks. Buy it for life.®

Leo A. Mercer
Director
Product Compliance
leo.mercer@moen.com

(440) 962-2073

September 9, 2009

To: Ray Fisher

From: Lee Mercer 

Re: California AB 1953

Ray,

Thanks for your questions regarding AB 1953. I can appreciate the questions some of our customers have regarding lack of clear definitions for the term "enter into commerce".

Several different industry groups have been trying to get clarity on the meaning of language in the bill since it was written. Many state agencies have declined to respond to requests for interpretation of the bill because the agencies claim to have no authority over writing a regulation or opinion for this statute.

The closest thing to an opinion issued by any state agency was an opinion on the appropriate interpretation of the phrase to "enter into commerce" given by the California Legislative Counsel Bureau in a June 19, 2009 letter to Senator Calderon. This letter interprets "enter into commerce" as "any act that brings a regulated item into the stream of commerce". Accordingly, under that interpretation, a product that meets the current requirements in California, that was sold into the state prior to the effective date of the legislation, (January 1, 2010) could still be either resold or installed after January 1, 2010. In addition to this opinion, it is helpful to rely on some of the legislative history of the bill. During the drafting of the bill, its author, Wilma Chan, responded to a question asking if manufacturers and retailers would have to dump existing supplies of leaded plumbing materials. Her response was no, the intent of the legislation was to allow for the natural replacement of these products in the home, in utility districts, as well as on the shelves of retailers. Once again, based on this information, it would be reasonable to say that the bill did not intend for retailers to purge their inventory of products that had already been entered into commerce.

Moen's position on when our product "enters into commerce" is consistent with both the opinion of legislative counsel and the legislative history. Lastly, I want to clarify that this is not a formal legal opinion; I'm merely trying to point out what we believed to be reasonable arguments that helped up to formulate our launch position for compliant products. Any customers that are uncomfortable with our position should be advised to seek an opinion from their legal counsel.

Moen Incorporated • 25300 Al Moen Drive, North Olmsted, OH 44070 • (440) 962-2000 • Fax: (440) 962-2770 • www.moen.com

Attn: Rick

Hope This is better.

Brent Goodwin