

COPY

David V. FILED

NOV 18 2011

SUPERIOR COURT OF CALIFORNIA
COUNTY OF HUMBOLDT

1 WILLIAM VERICK, SBN 140972
Klamath Environmental Law Center
2 FREDRIC EVENSON, SBN 198059
424 First Street
3 Eureka, CA 95501
Telephone: (707) 268-8900
4 Facsimile: (707) 268-8901
wverick@igc.org
5 ecorights@earthlink.net

6 DAVID ROE SBN 62552
Law Offices of David Roe
7 1061 Walker Avenue
Oakland, CA 94610
8 Telephone: (510) 465-5860
davidroe@mail.com

9 Attorneys for Plaintiff,
10 MATEEL ENVIRONMENTAL JUSTICE FOUNDATION

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 COUNTY OF HUMBOLDT
13 (Unlimited Jurisdiction)

14 MATEEL ENVIRONMENTAL
15 JUSTICE FOUNDATION,

CASE NO **DR110874**

16 Plaintiff,
17 v.

COMPLAINT FOR INJUNCTIVE RELIEF
AND CIVIL PENALTIES

18 AKER BIOMARINE; AURORA ALGAE,
19 INC.; AUSTRAL GROUP S.A.A.; AZANTIS,
INC.; BARLEAN'S ORGANIC OILS, LLC;
20 BASF CORPORATION; BIODROGA, INC.;
BIORIGINAL FOOD AND SCIENCE CORP.;
21 BIZEN CHEMICAL CO., LTD;
BORREGAARD WD LTD; COPEINCA
22 S.A.C.; CRODA INTERNATIONAL; DSM
NUTRITIONAL PRODUCTS; EPAX AS; GC
23 RIEBER OILS AS GOLDEN OMEGA S.A.;
JR CARLSON LABORATORIES; K.D.
24 PHARMA BEXBACH GMBH; MARINE
NUTRICEUTICAL CORP; MARUHA
25 NICHIRO FOODS, INC.; NORDIC
NATURALS, INC.; OCEAN NUTRITION
26 CANADA LIMITED; OMEGA NATURAL
SCIENCE, INC. (ORIGINATES, INC.);
27 PHARMA MARINE AS; PHARMLINE,

TOXIC TORT/ENVIRONMENTAL

1 INC.; SOLUCIONES EXTRACTIVAS
2 ALIMENTARIAS, SL; TECHNOLOGICA de
3 ALIMENTOS S.A.; and TISHCON CORP.
(WILEY ORGANICS);

4 Defendants.
5
6

7 MATEEL ENVIRONMENTAL JUSTICE FOUNDATION allege as follows:

8 INTRODUCTION

9 1. This Complaint seeks civil penalties and an injunction to remedy the continuing
10 failure of defendants AKER BIOMARINE; AURORA ALGAE, INC.; AUSTRAL GROUP
11 S.A.A.; AZANTIS, INC.; BARLEAN'S ORGANIC OILS, LLC; BASF CORPORATION;
12 BIODROGA, INC.; BIORIGINAL FOOD AND SCIENCE CORP.; BIZEN CHEMICAL CO.,
13 LTD; BORREGAARD WD LTD; COPEINCA S.A.C.; CRODA INTERNATIONAL; DSM
14 NUTRITIONAL PRODUCTS; EPAX AS; GC RIEBER OILS AS GOLDEN OMEGA S.A.; JR
15 CARLSON LABORATORIES; K.D. PHARMA BEXBACH GMBH; MARINE
16 NUTRICEUTICAL CORP; MARUHA NICHIRO FOODS, INC.; NORDIC NATURALS, INC.;
17 OCEAN NUTRITION CANADA LIMITED; OMEGA NATURAL SCIENCE, INC.
18 (ORIGINATES, INC.); PHARMA MARINE AS; PHARMLINE, INC.; SOLUCIONES
19 EXTRACTIVAS ALIMENTARIAS, SL; TECHNOLOGICA de ALIMENTOS S.A.; and
20 TISHCON CORP. (WILEY ORGANICS), (hereinafter "Defendants"), to give clear and
21 reasonable warnings to those residents of California who are exposed to polychlorinated
22 biphenyls, polychlorinated dibenzo-p-dioxins, polychlorinated dibenzofurans and 2,3,7,8
23 tetrachlorinated dibenzo-p-dioxin (hereinafter, collectively, "PCBs and dioxins"), when they
24 handle, ingest and use dietary supplements or supplemented foods or beverages containing
25 containing eicosapentanoica acid (EPA) and docosahexaenoic acid (DHA) including those that
26 are, or that are made from, fish oils, fish liver oils, shark or squid oils, and/or shark liver oils
27 (collectively, hereinafter, "fish oil supplements"). PCBs and dioxins are known to the State of
28 California to cause cancer and birth defects. Defendants manufacture, distribute, and/or market
fish oil

1 supplements. Defendants' products cause exposures to PCBs and dioxins, which are chemicals
2 known to the State of California to cause cancer, birth defects and other reproductive harm.

3 2. Defendants are businesses that manufacture, market, and/or distribute fish oil
4 supplements. Defendants intend that residents of California ingest fish oil supplements that
5 Defendants manufacture, market, and/or distribute. When these products are ingested in their
6 normally intended manner, they expose people to PCBs and dioxins. In spite of knowing that
7 residents of California were and are being exposed to PCBs and dioxins when they ingest
8 Defendants' fish oil supplements, Defendants did not and do not provide clear and reasonable
9 warnings that these products cause exposure to chemicals known to cause cancer, birth defects
10 and other reproductive harm.

11 3. Plaintiff seeks injunctive relief pursuant to Health & Saf. Code § 25249.7 to
12 compel Defendants to bring their business practices into compliance with section Health & Saf.
13 Code § 25249.5 *et seq.* by providing a clear and reasonable warning to each individual who has
14 been and who in the future may be exposed to the above mentioned toxic chemicals from the
15 reasonably anticipated and intended use of Defendants' products.

16 4. In addition to injunctive relief, plaintiff seeks civil penalties to remedy the failure
17 of Defendants to provide clear and reasonable warnings regarding exposure to chemicals known
18 to cause cancer, birth defects and other reproductive harm.

19 PARTIES

20 5. Plaintiff MATEEL ENVIRONMENTAL JUSTICE FOUNDATION ("Mateel")
21 is a non-profit corporation dedicated to, among other causes, the protection of the environment,
22 promotion of human health, environmental education, and consumer rights. Mateel is based in
23 Eureka, California, and is incorporated under the laws of the State of California. Mateel is a
24 "person" within the meaning of Health & Saf, Code §§ 25118 and 25249.11(a). Mateel brings
25 this enforcement action in the public interest pursuant to Health & Safety Code §25249.7(d).

1 supplements. It is thus consistent with traditional notions of fair play and substantial justice for
2 the Humboldt Superior Court to exercise jurisdiction over them.

3 11. Venue is proper in this Court because Defendants market their products in and
4 around Humboldt County and thus intentionally cause people to ingest PCBs while those people
5 are physically present in Humboldt County. Liability for Plaintiffs' causes of action, or some
6 parts thereof, has accordingly arisen in Humboldt County during the times relevant to this
7 Complaint and Plaintiffs accordingly seek civil penalties and forfeitures imposed by statutes.

8 FIRST CAUSE OF ACTION
9 (Claim for Injunctive Relief)

10 12. Plaintiff s reallege and incorporate by reference into this First Cause of Action, as
11 if specifically set forth herein, paragraphs 1 through 11, inclusive.

12 13. The People of the State of California have declared by referendum under
13 Proposition 65 (California Health & Safety Code § 25249.5 et seq.) their right "[t]o be informed
14 about exposures to chemicals that cause cancer, birth defects, and reproductive harm."

15 14. To effectuate this goal, Section 25249.6 of the Health and Safety Code mandates
16 that persons who, in the course of doing business, knowingly and intentionally expose any
17 individual to a chemical known to the State of California to cause cancer or birth defects, must
18 first provide a clear and reasonable warning to such individual prior to the exposure.

19 15. Since at least April 15, 2008, Defendants have engaged in conduct that violates
20 Health and Safety Code Section 25249.6 et seq. This conduct includes knowingly and
21 intentionally exposing those California residents who ingest fish oil supplements to PCBs and
22 dioxins. The normally intended use of fish oil supplements causes people to ingest PCBs and
23 dioxins, which are chemicals known to the State of California to cause cancer, birth defects and
24 other reproductive harm. Defendants have not provided clear and reasonable warnings within the
25 meaning of Health & Safety Code Sections 25249.6 and 25249.11.

26 16. At all times relevant to this action, Defendants knew that the fish oil supplements
27 they marketed were causing exposures to PCBs and dioxins. Defendants intended that residents
28 of California ingest fish oil supplements thereby causing significant exposures to these
chemicals.



Klamath

ENVIRONMENTAL
LAW CENTER

April 14, 2011

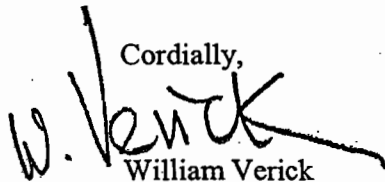
PROPOSITION 65 ENFORCEMENT REPORTING
ATTENTION: PROP 65 COORDINATOR
1515 CLAY STREET, SUITE 2000
P.O. BOX 70550
OAKLAND CA 94612-0550

Re: Notice of Violation of Cal. Health & Safety Code § 25249.6 (PCB Exposure)

Greetings:

The Mateel Environmental Justice Foundation ("Mateel"), Chris Manthey and Benson Chiles give you notice that the private businesses listed on the attached Service List have been, are, will be and threaten to be in violation of Cal. Health & Safety Code §25249.6. Mateel, Mr. Manthey and Mr. Chiles are private enforcers of Proposition 65, all may be contacted at the below listed address and telephone number. I am a responsible individual at Mateel. The Noticing Parties are also represented by David Roe. Mr. Roe may be reached at: Law Offices of David Roe, 1061 Walker Ave, Oakland, CA 94610, (510) 465-5860. The above referenced violations occur and have occurred when people ingest dietary supplements these companies market that are made from fish oil, fish liver oils, shark oils and/or shark liver oils, as well as other oils containing eicosapentanoic acid (EPA) and docosahexaenoic acid (DHA), (collectively EPA and DHA Omega-3s or, "products"). These products expose the people who take them to polychlorinated biphenyls ("PCBs"), polychlorinated dibenzo-p-dioxins, polychlorinated dibenzofurans and 2,3,7, 8 tetrachlorodibenzo-para-dioxin via the ingestion, dermal absorption and absorption through mucous membrane routes. The listed companies did not and do not provide people with clear and reasonable warnings before they expose them to these chemicals. The above referenced violations have occurred every day since at least April 14, 2008 and will continue every day until these chemicals are taken out of these products or until warnings are given.

Cordially,


William Verick

Each of the below-listed businesses is being served with this notice by mailing a copy of the notice to:
Robert Falk, Morrison & Foerster LLP, 425 Market Street, San Francisco, CA 94105-2482,
their authorized agent for service of this notice.

AKER BIOMARINE
FJORDALLEEN 16 OSLO,
NORWAY -0115

AURORA ALGAE, INC.
3325 INVESTMENT BLVD.
HAYWARD, CA 94545

AUSTRAL GROUP S.A.A.
AV. VICTOR ANDRES BELAUNDE 147 CENTRO
EMPRESARIAL TORRE REAL SIETE
SAN ISIDRO, LIMA, PERU, LIMA27

AZANTIS, INC.
4885 RIVERBEND RD. SUITE D
BOULDER, CO 80301

BARLEAN'S ORGANIC OILS, LLC
980 9TH STREET, SUITE 1700
SACRAMENTO, CA 95814

BASF CORPORATION
100 CAMPUS DRIVE
FLORHAM PARK, NJ 07932

BIODROGA, INC.
301 JOSEPH CARRIER
JAUDREUIL, QC J7V5V5

BIORIGINAL FOOD AND SCIENCE CORP.
102 MELVILLE STREET
SASHATOON, SK. S7J ORI CANADA

BIZEN CHEMICAL CO., LTD.
363 TOKUTOMI
AKAIUA-SHI, OKAYAMA JAPAN 709-0716

COPEINCA S.A.C.
CALLE FRANCISCO GRAÑA 155, URB. SANTA CATALINA,
LA VICTORIA
LIMA, PERU, L13

CRODA INTERNATIONAL
CRODA, INC
300-A COLUMBUS CIRCLE
EDISON, NEW JERSEY 08837-3907

BORREGAARD WD. LTD.,
DIVISION DEN OMEGA PURE HEALTH
P.O. BOX 162
NO-1701 SARPSBORG, NORWAY

DSM NUTRITIONAL PRODUCTS
45 WATERVIEW BLVD.
PARSIPPANY, NJ 07054

EPAX AS
AARSETER VEIEN 17
N-6028 NORWAY

GC RIEBER OILS AS
POST B 454
N-6501 KRISTIANSUND NORWAY

GOLDEN OMEGA S.A.
AV. EL GOLF 150, 15TH FLOOR LAS CONDES
SANTIAGO, CHILE

JR CARLSON LABORATORIES
15 W COLLEGE DR
ARLINGTON HEIGHTS, IL 60004

K.D. PHARMA BEXBACH GMBH
AM KRAFTWERK 6
BEXBACH 66450 GERMANY

MARINE NUTRICEUTICAL CORP.
794 SUNRISE BOULEVARD
MOUNT BETHEL, PA 18343

MARUHA NICHIRO FOODS, INC.
3-2-10 TOYOSU, KOTO
TOKYO, JAPAN 135-8605

ORIGINATES, INC.
20900 NE 30TH AVE. SUITE 707
AVENTURA, FL 33180

NORDIC NATURALS, INC.,
111 JENNINGS DRIVE
WATSONVILLE, CA 95076

OCEAN NUTRITION CANADA LIMITED
101 RESEARCH DRIVE
DARTMOUTH, NOVA SCOTIA, CANADA B2Y 4T6

OMEGA NATURAL SCIENCE, INC.
1050 WINTER STREET, SUITE 1000
WALTHAM, MA 02451

WILEY ORGANICS, INC. DBA ORGANIC TECHNOLOGIES
P.O. BOX 640
COSHOCOTON, OH 43812

PHARMA MARINE AS
TEROY
6280 SOVIK, NORWAY

PHARMLINE, INC.
41 BRIDGE STREET, PO BOX 291
FLORIDA, NY 10921

SOLUCIONES EXTRACTIVAS ALIMENTARIAS, SL
AURA DE BARAJAS, 24-3
28109-ALCOBENDAS MADRID SPAIN

TECNOLOGICS DE ALIMENTOS S.A.
LAS BEGONIAS 441-352
LIMA, LIMA, PERU LIMA 27

TISHCON CORP.
50 SYLVESTER STREET
WESTBURY, NY 11590

SERVICE LIST

PROPOSITION 65 ENFORCEMENT
REPORTING
ATTENTION: PROP 65 COORDINATOR
1515 CLAY STREET, SUITE 2000
POST OFFICE BOX 70550
OAKLAND, CA 94612-0550

OFFICE OF THE CITY ATTORNEY
CITY OF OAKLAND
505 14TH ST 12TH FLOOR
OAKLAND, CA 94612

OFFICE OF THE CITY ATTORNEY
CITY OF SAN FRANCISCO
CITY HALL ROOM 206
400 VAN NESS
SAN FRANCISCO, CA 94102

OFFICE OF THE CITY ATTORNEY
CITY OF SACRAMENTO
PO BOX 1948
SACRAMENTO, CA 95812-1948

OFFICE OF THE CITY ATTORNEY
CITY OF SAN JOSE
200 EAST SANTA CLARA STREET
SAN JOSE, CA 95113

OFFICE OF THE CITY ATTORNEY
CITY OF LOS ANGELES
200 N. MAIN ST.
LOS ANGELES, CA 90012

OFFICE OF THE CITY ATTORNEY
CITY OF SAN DIEGO CONSUMER &
ENVIRONMENTAL PROTECTION
1200 THIRD AVENUE, SUITE 700
SAN DIEGO, CA 92101

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF ALAMEDA
1225 FALLON STREET ROOM 900
OAKLAND, CA 94612

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF ALPINE
P.O. BOX 248
MARKLEEVILLE, CA 96120

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF AMADOR
708 COURT STREET
JACKSON, CA 95642

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF BUTTE
25 COUNTY CENTER DR.
OROVILLE, CA 95965

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF CALAVERAS
GOVERNMENT CENTER
891 MOUNTAIN RANCH ROAD
SAN ANDREAS, CA 95249

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF COLUSA
547 MARKET STREET
COLUSA, CA 95932

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF CONTRA COSTA
P.O. BOX 670
MARTINEZ, CA 94553

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF DEL NORTE
450 H ST #171
CRESCENT CITY, CA 95531

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF EL DORADO
515 MAIN ST.
PLACERVILLE, CA 95667

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF FRESNO
2220 TULARE ST #1000
FRESNO, CA 93721

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF GLENN
P.O. BOX 430
WILLOWS, CA 95988

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF HUMBOLDT
825 5TH ST.
EUREKA, CA 95501

COUNTY OF IMPERIAL
COURTHOUSE, FLOOR 2
939 W. MAIN ST
EL CENTRO, CA 92243

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF INYO
P.O. DRAWER D
INDEPENDENCE, CA 93526

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF KERN
1215 TRUXTUN AVE. FLOOR 4
BAKERSFIELD, CA 93301

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF KINGS
1400 W. LACEY BLVD.
HANFORD, CA 93230

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF LAKE
255 N. FORBES ST # 424
LAKEPORT, CA 95453

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF LASSEN
220 SOUTH LASSEN ST. STE 8
SUSANVILLE, CA 96130

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF LOS ANGELES
18000 CRIMINAL COURTS
BUILDING
210 W. TEMPLE ST.
LOS ANGELES, CA 90012

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF MADERA
209 W. YOSEMITE AVE.
MADERA, CA 93637

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF MARIN
HALL OF JUSTICE #183
SAN RAFAEL, CA 94903

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF MARIPOSA
P.O. BOX 730
MARIPOSA, CA 95338

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF MENDOCINO
PO BOX 1000
UKIAH, CA 95482

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF MERCED
2222 M ST.
MERCED, CA 95340

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF MODOC
204 SOUTH COURT STREET
ALTURAS, CA 96101

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF MONO
P.O. BOX 617
BRIDGEPORT, CA 93517

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF MONTEREY
240 CHURCH STREET
P.O. BOX 1131
SALINAS, CA 93902

COUNTY OF NAPA
931 PARKWAY MALL
P.O. BOX 720
NAPA, CA 94559-0720

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF NEVADA
110 UNION STREET
NEVADA CITY, CA 95959

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF ORANGE
401 CIVIC CENTER DR WEST
SANTA ANA, CA 92701

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF PLACER
10810 JUSTICE CENTER DR. STE 240
ROSEVILLE, CA 95678

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF PLUMAS
520 MAIN STREET #404
QUINCY, CA 95971

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF RIVERSIDE
4075 MAIN ST.
RIVERSIDE, CA 92501

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SACRAMENTO
901 G STREET
SACRAMENTO, CA 95814

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN BENITO
419 4TH ST
HOLLISTER, CA 95023

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN BERNARDINO
316 MT. VIEW AVE.
SAN BERNARDINO, CA 92415-0004

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN DIEGO
330 W. BROADWAY, SUITE 1100
SAN DIEGO, CA 92101

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN FRANCISCO
850 BRYANT ST #322
SAN FRANCISCO, CA 94103

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN JOAQUIN
222 E. WEBER AVE #202
STOCKTON, CA 95202

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN LUIS OBISPO
COUNTY GOVERNMENT CENTER
#450
SAN LUIS OBISPO, CA 93408

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN MATEO
HALL OF JUSTICE AND RECORDS
REDWOOD CITY, CA 94063

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SANTA BARBARA
1112 SANTA BARBARA ST.
SANTA BARBARA, CA 93101

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SANTA CLARA
70 W. HEDDING ST.
SAN JOSE, CA 95110

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SANTA CRUZ
701 OCEAN ST. #200
SANTA CRUZ, CA 95060

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SHASTA
1525 COURT ST.
REDDING, CA 96001

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SIERRA
P.O. BOX 457
DOWNIEVILLE, CA 95936

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SISKIYOU
P.O. BOX 986
YREKA, CA 96097

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SOLANO
600 UNION AVE
FAIRFIELD, CA 94533

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SONOMA
600 ADMINISTRATION DR. #212J
SANTA ROSA, CA 95403

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF STANISLAUS
1100 1ST. #200
MODESTO, CA 95354

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SUTTER
1160 CIVIC CENTER BLVD. #A
YUBA CITY, CA 95993

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF TEHAMA
P.O. BOX 519
REDBLUFF, CA 96080

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF TRINITY
P.O. BOX 310
WEAVERVILLE, CA 96093

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF TULARE
COURTHOUSE #224
VISALIA, CA 93291

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF TUOLUMNE
2 S. GREEN ST.
SONORA, CA 95370

VENTURA COUNTY DISTRICT
ATTORNEY'S OFFICE
800 SOUTH VICTORIA AVE
VENTURA, CA 93009

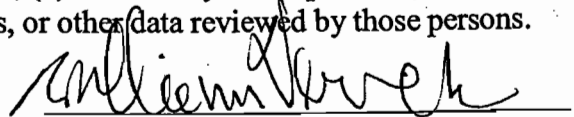
OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF YOLO
301 SECOND STREET
WOODLAND, CA 95695

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF YUBA
215 5TH ST.
MARYSVILLE, CA 95901

CERTIFICATE OF MERIT

I, William Verick, hereby declare: This Certificate of Merit accompanies the attached notice(s) of violation in which it is alleged the parties identified in the notices have violated Health and Safety Code section 25249.6 by failing to provide clear and reasonable warnings. I am the attorney for the noticing party. I have consulted with one or more persons with relevant and appropriate experience or expertise who has reviewed facts, studies, or other data regarding the exposure to the listed chemical that is the subject of the action. Based on the information obtained through those consultations, and on all other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for the private action" means that the information provides a credible basis that all elements of the plaintiffs' case can be established and the information did not prove that the alleged violator will be able to establish any of the affirmative defenses set forth in the statute. The copy of this Certificate of Merit served on the Attorney General attaches to it factual information sufficient to establish the basis for this certificate, including the information identified in Health and Safety Code section 25249.7(h)(2), i.e., (1) the identity of the person(s) consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

Dated: April 14, 2011



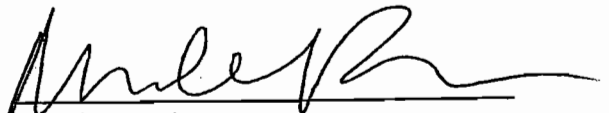
William Verick

This notice alleges the violation of Proposition 65 with respect to occupational exposures governed by the California State Plan for Occupational Safety and Health. The State Plan incorporates the provisions of Proposition 65, as approved by Federal OSHA on June 6, 1997. This approval specifically placed certain conditions on Proposition 65, including that it does not apply to the conduct of manufacturers occurring outside the State of California. The approval also provides that an employer may use the means of compliances in the general hazard communication requirements to comply with Proposition 65. It also requires that supplemental enforcement is subject to the supervision of the California Occupational Safety and Health Administration. Accordingly, any settlement, civil complaint, or substantive court orders in this matter must be submitted to the Attorney General.

CERTIFICATE OF SERVICE

I, Nicole Frank, declare:

If called, I could and would testify as follows: I am over eighteen. My business address is 424 First Street, Eureka, California, 95501. On April 14, 2011, I caused the attached NOTICE OF VIOLATION LETTER, or a letter identical in substance, to be served by U.S. Mail on those public enforcement agencies listed on the attached SERVICE LIST; in addition on the same date and by U.S. Mail I caused the attached NOTICE OF VIOLATION and PROPOSITION 65: A SUMMARY to be sent by Certified U.S. Mail to the private business entities also listed on the attached SERVICE LIST. I deposited copies of these documents in envelopes, postage pre-paid, with the U.S. Postal Service on the day on which the mail is collected. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on April 14, 2011, at Eureka, California.



Nicole Frank



Klamath

ENVIRONMENTAL
LAW CENTER

April 15, 2011

To All of Those Listed on Attachment A and B:

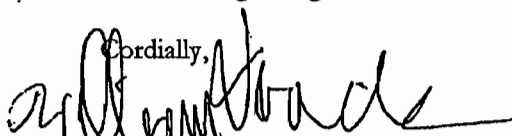
Corrected Notice of Violation of Cal. Health & Safety Code § 25249.6 (concerning exposures to PCBs, Dioxins, and Furans from EPA and DHA containing oils)

Please note that this is a follow-up letter that is a corrected version of a letter we mailed to you yesterday which contained several inadvertent errors regarding our notice of violation of California Health and Safety Code section 25249.6 ("Proposition 65") concerning fish, fish liver, shark, shark liver and other EPA and DHA-containing oils. This corrected letter incorporates by reference the Proposition 65 Certificate of Merit attached to our letter yesterday, another copy of which is attached.

The Mateel Environmental Justice Foundation ("Mateel"), Chris Manthey and Benson Chiles (collectively, the "Noticing Parties") give you and the public prosecutors identified on Attachment B notice that your company has been, is, will be and threatens to be in violation of Cal. Health & Safety Code §25249.6. The Noticing Parties are private enforcers of Proposition 65; all may be contacted at the below listed address and telephone number. I am a responsible individual at Mateel. The Noticing Parties are also represented by David Roe. Mr. Roe may be reached at: Law Offices of David Roe, 1061 Walker Ave, Oakland, CA 94610, (510) 465-5860.

The above-referenced violations occur and have occurred when people ingest fish (including, but not limited to, cod and salmon) oils, fish (including, but not limited to, cod) liver oils, shark or squid oils, and/or shark liver oils, as well as other oils containing eicosapentanoic acid (EPA) and docosahexaenoic acid (DHA) (collectively, the "Products") which your company manufacturers or directly or indirectly distributes, markets for sale, or sells to consumers in California. These Products expose the people who use or ingest them to polychlorinated biphenyls ("PCBs"), polychlorinated dibenzo-p-dioxins, polychlorinated dibenzofurans and 2,3,7, 8 tetrachlorodibenzo-para-dioxin via the ingestion, dermal absorption and, absorption through mucous membrane routes of exposure.

Your company did not and does not provide California consumers with clear and reasonable warnings as required by Proposition 65 before you expose them to the aforementioned chemicals via your Products. The above referenced violations have occurred every day since at least April 14, 2008 and will continue every day until these chemicals are reduced in, or eliminated from, your Products or until clear and reasonable warnings are given to California consumers for them as required by Proposition 65.

Cordially,

William Verick

ATTACHMENT A

Each of the below-listed businesses is being served with this notice by mailing a copy of the notice to:
Robert Falk, Morrison & Foerster LLP, 425 Market Street, San Francisco, CA 94105-2482,
their authorized agent for service of this notice.

AKER BIOMARINE
FJORDALLEEN 16 OSLO,
NORWAY -0115

AURORA ALGAE, INC.
3325 INVESTMENT BLVD.
HAYWARD, CA 94545

AUSTRAL GROUP S.A.A.
AV. VICTOR ANDRES BELAUNDE 147 CENTRO
EMPRESARIAL TORRE REAL SIETE
SAN ISIDRO, LIMA, PERU, LIMA27

AZANTIS, INC.
4885 RIVERBEND RD. SUITE D
BOULDER, CO 80301

BARLEAN'S ORGANIC OILS, LLC
980 9TH STREET, SUITE 1700
SACRAMENTO, CA 95814

BASF CORPORATION
100 CAMPUS DRIVE
FLORHAM PARK, NJ 07932

BIODROGA, INC.
301 JOSEPH CARRIER
JAUDREUIL, QC J7V5V5

BIORIGINAL FOOD AND SCIENCE CORP.
102 MELVILLE STREET
SASHATOON, SK. S7J ORI CANADA

BIZEN CHEMICAL CO., LTD.
363 TOKUTOMI
AKAIUA-SHI, OKAYAMA JAPAN 709-0716

COPEINCA S.A.C.
CALLE FRANCISCO GRAÑA 155, URB. SANTA CATALINA,
LA VICTORIA
LIMA, PERU, L13

CRODA INTERNATIONAL
CRODA, INC
300-A COLUMBUS CIRCLE
EDISON, NEW JERSEY 08837-3907

BORREGAARD WD. LTD.,
DIVISION DEN OMEGA PURE HEALTH
P.O. BOX 162
NO-1701 SARPSBORG, NORWAY

DSM NUTRITIONAL PRODUCTS
45 WATERVIEW BLVD.
PARSIPPANY, NJ 07054

EPAX AS
AARSETER VEIEN 17
N-6028 NORWAY

GC RIEBER OILS AS
POST B 454
N-6501 KRISTIANSUND NORWAY

GOLDEN OMEGA S.A.
AV. EL GOLF 150, 15TH FLOOR LAS CONDES
SANTIAGO, CHILE

JR CARLSON LABORATORIES
15 W COLLEGE DR
ARLINGTON HEIGHTS, IL 60004

K.D. PHARMA BEXBACH GMBH
AM KRAFTWERK 6
BEXBACH 66450 GERMANY

MARINE NUTRICEUTICAL CORP.
794 SUNRISE BOULEVARD
MOUNT BETHEL, PA 18343

MARUHA NICHIRO FOODS, INC.
3-2-10 TOYOSU, KOTO
TOKYO, JAPAN 135-8605

ORIGINATES, INC.
20900 NE 30TH AVE. SUITE 707
AVENTURA, FL 33180

NORDIC NATURALS, INC.,
111 JENNINGS DRIVE
WATSONVILLE, CA 95076

OCEAN NUTRITION CANADA LIMITED
101 RESEARCH DRIVE
DARTMOUTH, NOVA SCOTIA, CANADA B2Y 4T6

OMEGA NATURAL SCIENCE, INC.
1050 WINTER STREET, SUITE 1000
WALTHAM, MA 02451

WILEY ORGANICS, INC. DBA ORGANIC TECHNOLOGIES
P.O. BOX 640
COSHOCOTON, OH 43812

PHARMA MARINE AS
TEROY
6280 SOVIK, NORWAY

PHARMLINE, INC.
41 BRIDGE STREET, PO BOX 291
FLORIDA, NY 10921

SOLUCIONES EXTRACTIVAS ALIMENTARIAS, SL
AURA DE BARAJAS, 24-3
28109-ALCOBENDAS MADRID SPAIN

TECNOLOGICS DE ALIMENTOS S.A.
LAS BEGONIAS 441-352
LIMA, LIMA, PERU LIMA 27

TISHCON CORP.
50 SYLVESTER STREET
WESTBURY, NY 11590

ATTACHMENT B

SERVICE LIST

PROPOSITION 65 ENFORCEMENT
REPORTING
ATTENTION: PROP 65 COORDINATOR
1515 CLAY STREET, SUITE 2000
POST OFFICE BOX 70550
OAKLAND, CA 94612-0550

OFFICE OF THE CITY ATTORNEY
CITY OF OAKLAND
505 14TH ST 12TH FLOOR
OAKLAND, CA 94612

OFFICE OF THE CITY ATTORNEY
CITY OF SAN FRANCISCO
CITY HALL ROOM 206
400 VAN NESS
SAN FRANCISCO, CA 94102

OFFICE OF THE CITY ATTORNEY
CITY OF SACRAMENTO
PO BOX 1948
SACRAMENTO, CA 95812-1948

OFFICE OF THE CITY ATTORNEY
CITY OF SAN JOSE
200 EAST SANTA CLARA STREET
SAN JOSE, CA 95113

OFFICE OF THE CITY ATTORNEY
CITY OF LOS ANGELES
200 N. MAIN ST.
LOS ANGELES, CA 90012

OFFICE OF THE CITY ATTORNEY
CITY OF SAN DIEGO CONSUMER &
ENVIRONMENTAL PROTECTION
1200 THIRD AVENUE, SUITE 700
SAN DIEGO, CA 92101

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF ALAMEDA
1225 FALLON STREET ROOM 900
OAKLAND, CA 94612

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF ALPINE
P.O. BOX 246
MARKLEEVILLE, CA 96120

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF AMADOR
708 COURT STREET
JACKSON, CA 95642

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF BUTTE
25 COUNTY CENTER DR.
OROVILLE, CA 95965

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF CALAVERAS
GOVERNMENT CENTER
891 MOUNTAIN RANCH ROAD
SAN ANDREAS, CA 95249

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF COLUSA
547 MARKET STREET
COLUSA, CA 95932

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF CONTRA COSTA
P.O. BOX 670
MARTINEZ, CA 94553

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF DEL NORTE
450 H ST #171
CRESCENT CITY, CA 95531

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF EL DORADO
515 MAIN ST.
PLACERVILLE, CA 95667

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF FRESNO
2220 TULARE ST #1000
FRESNO, CA 93721

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF GLENN
P.O. BOX 430
WILLOWS, CA 95988

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF HUMBOLDT
825 5TH ST.
EUREKA, CA 95501

COUNTY OF IMPERIAL
COURTHOUSE, FLOOR 2
939 W. MAIN ST
EL CENTRO, CA 92243

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF INYO
P.O. DRAWER D
INDEPENDENCE, CA 93526

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF KERN
1215 TRUXTUN AVE. FLOOR 4
BAKERSFIELD, CA 93301

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF KINGS
1400 W. LACEY BLVD.
HANFORD, CA 93230

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF LAKE
255 N. FORBES ST # 424
LAKEPORT, CA 95453

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF LASSEN
220 SOUTH LASSEN ST. STE 8
SUSANVILLE, CA 96130

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF LOS ANGELES
18000 CRIMINAL COURTS
BUILDING
210 W. TEMPLE ST.
LOS ANGELES, CA 90012

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF MADERA
209 W. YOSEMITE AVE.
MADERA, CA 93637

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF MARIN
HALL OF JUSTICE #183
SAN RAFAEL, CA 94903

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF MARIPOSA
P.O. BOX 730
MARIPOSA, CA 95338

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF MENDOCINO
PO BOX 1000
UKIAH, CA 95482

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF MERCED
2222 M ST.
MERCED, CA 95340

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF MODOC
204 SOUTH COURT STREET
ALTURAS, CA 96101

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF MONO
P.O. BOX 617
BRIDGEPORT, CA 93517

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF MONTEREY
240 CHURCH STREET
P.O. BOX 1131
SALINAS, CA 93902

COUNTY OF NAPA
931 PARKWAY MALL
P.O. BOX 720
NAPA, CA 94559-0720

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF NEVADA
110 UNION STREET
NEVADA CITY, CA 95959

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF ORANGE
401 CIVIC CENTER DR WEST
SANTA ANA, CA 92701

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF PLACER
10810 JUSTICE CENTER DR. STE 240
ROSEVILLE, CA 95678

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF PLUMAS
520 MAIN STREET #404
QUINCY, CA 95971

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF RIVERSIDE
4075 MAIN ST.
RIVERSIDE, CA 92501

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SACRAMENTO
901 G STREET
SACRAMENTO, CA 95814

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN BENITO
419 4TH ST
HOLLISTER, CA 95023

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN BERNARDINO
316 MT. VIEW AVE.
SAN BERNARDINO, CA 92415-0004

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN DIEGO
330 W. BROADWAY, SUITE 1100
SAN DIEGO, CA 92101

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN FRANCISCO
850 BRYANT ST #322
SAN FRANCISCO, CA 94103

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN JOAQUIN
222 E. WEBER AVE #202
STOCKTON, CA 95202

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN LUIS OBISPO
COUNTY GOVERNMENT CENTER
#450
SAN LUIS OBISPO, CA 93408

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN MATEO
HALL OF JUSTICE AND RECORDS
REDWOOD CITY, CA 94063

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SANTA BARBARA
1112 SANTA BARBARA ST.
SANTA BARBARA, CA 93101

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SANTA CLARA
70 W. HEDDING ST.
SAN JOSE, CA 95110

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SANTA CRUZ
701 OCEAN ST. #200
SANTA CRUZ, CA 95060

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SHASTA
1525 COURT ST.
REDDING, CA 96001

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SIERRA
P.O. BOX 457
DOWNEVILLE, CA 95936

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SISKIYOU
P.O. BOX 986
YREKA, CA 96097

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SOLANO
600 UNION AVE
FAIRFIELD, CA 94533

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SONOMA
600 ADMINISTRATION DR. #212J
SANTA ROSA, CA 95403

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF STANISLAUS
1100 I ST. #200
MODESTO, CA 95354

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SUTTER
1160 CIVIC CENTER BLVD. #A
YUBA CITY, CA 95993

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF TEHAMA
P.O. BOX 519
REDBLUFF, CA 96080

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF TRINITY
P.O. BOX 310
WEAVERVILLE, CA 96093

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF TULARE
COURTHOUSE #224
VISALIA, CA 93291

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF TUOLUMNE
2 S. GREEN ST.
SONORA, CA 95370

VENTURA COUNTY DISTRICT
ATTORNEY'S OFFICE
800 SOUTH VICTORIA AVE
VENTURA, CA 93009

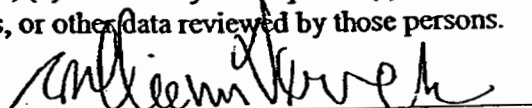
OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF YOLO
301 SECOND STREET
WOODLAND, CA 95695

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF YUBA
215 5TH ST.
MARYSVILLE, CA 95901

CERTIFICATE OF MERIT

I, William Verick, hereby declare: This Certificate of Merit accompanies the attached notice(s) of violation in which it is alleged the parties identified in the notices have violated Health and Safety Code section 25249.6 by failing to provide clear and reasonable warnings. I am the attorney for the noticing party. I have consulted with one or more persons with relevant and appropriate experience or expertise who has reviewed facts, studies, or other data regarding the exposure to the listed chemical that is the subject of the action. Based on the information obtained through those consultations, and on all other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for the private action" means that the information provides a credible basis that all elements of the plaintiffs' case can be established and the information did not prove that the alleged violator will be able to establish any of the affirmative defenses set forth in the statute. The copy of this Certificate of Merit served on the Attorney General attaches to it factual information sufficient to establish the basis for this certificate, including the information identified in Health and Safety Code section 25249.7(h)(2), i.e., (1) the identity of the person(s) consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

Dated: April 14, 2011

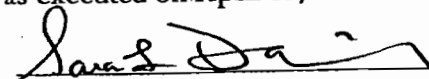

William Verick

This notice alleges the violation of Proposition 65 with respect to occupational exposures governed by the California State Plan for Occupational Safety and Health. The State Plan incorporates the provisions of Proposition 65, as approved by Federal OSHA on June 6, 1997. This approval specifically placed certain conditions on Proposition 65, including that it does not apply to the conduct of manufacturers occurring outside the State of California. The approval also provides that an employer may use the means of compliances in the general hazard communication requirements to comply with Proposition 65. It also requires that supplemental enforcement is subject to the supervision of the California Occupational Safety and Health Administration. Accordingly, any settlement, civil complaint, or substantive court orders in this matter must be submitted to the Attorney General.

CERTIFICATE OF SERVICE

I, Sara Davis, declare:

If called, I could and would testify as follows: I am over eighteen. My business address is 425 Market Street, San Francisco, California 94115. On April 15, 2011, I caused the attached Corrected NOTICE OF VIOLATION letter, or a letter identical in substance, and Certificate of Merit to be served by U.S. Mail on those public enforcement agencies listed on ATTACHMENT B SERVICE LIST. I deposited copies of these documents in envelopes, postage prepaid, with the U.S. Postal Service on the day on which the mail is collected. In addition, on the same date, I caused the attached Corrected NOTICE OF VIOLATION letter, Certificate of Merit and PROPOSITION 65: A SUMMARY to be sent to the private business entities listed on ATTACHMENT A by personally serving them on their agent authorized for service of this notice, Robert Falk, Morrison & Foerster LLP, 425 Market Street, San Francisco, CA 94105-2482. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on April 15, 2011 at San Francisco, California.


Sara Davis

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Section 25249.7, Health and Safety Code.

APPENDIX A
OFFICE OF ENVIRONMENTAL HEALTH HAZARD
ASSESSMENT
CALIFORNIA ENVIRONMENTAL PROTECTION
AGENCY
THE SAFE DRINKING WATER AND TOXIC
ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A
SUMMARY

The following summary has been prepared by the Office of Environmental Health Hazard Assessment, the lead agency for the implementation of the Safe Drinking Water and Toxic Enforcement Act of 1986 (commonly known as "Proposition 65"). A copy of this summary must be included as an attachment to any notice of violation served upon an alleged violator of the Act. The summary provides basic information about the provisions of the law, and is intended to serve only as a convenient source of general information. It is not intended to provide authoritative guidance on the meaning or application of the law. The reader is directed to the statute and its implementing regulations (see citations below) for further information. Proposition 65 appears in California law as Health and Safety Code Sections 25249.5 through 25249.13. Regulations that provide more specific guidance on compliance, and that specify procedures to be followed by the State in carrying out certain aspects of the law, are found in Title 22 of the California Code of Regulations, Sections 25000 through 27001.

WHAT DOES PROPOSITION 65 REQUIRE?

The "Governor's List." Proposition 65 requires the Governor to publish a list of chemicals that are known to the State of California to cause cancer, or birth defects or other reproductive harm. This list must be updated at least once a year. Over 735 chemical listings have been included as of November 16, 2001. Only those chemicals that are on the list are regulated under this law. Businesses that produce, use, release or otherwise engage in activities involving those chemicals must comply with the following:

Clear and reasonable warnings. A business is required to warn a person before "knowingly and intentionally" exposing that person to a listed chemical. The warning given must be "clear and reasonable." This means that the warning must: (1) clearly make known that the chemical involved is known to cause cancer, or birth defects or other reproductive harm; and (2) be given in such a way that it will effectively reach the person before he or she is exposed. Exposures are exempt from the warning requirement if they occur less than twelve months after the date of listing of the chemical.

June 2008

Prohibition from discharges into drinking water. A business must not knowingly discharge or release a listed chemical into water or onto land where it passes or probably will pass into a source of drinking water. Discharges are exempt from this requirement if they occur less than twenty months after the date of listing of the chemical.

DOES PROPOSITION 65 PROVIDE ANY

EXEMPTIONS?

Yes. The law exempts:

Governmental agencies and public water utilities. All agencies of the federal, State or local government, as well as entities operating public water systems, are exempt.

Businesses with nine or fewer employees. Neither the warning requirement nor the discharge prohibition applies to a business that employs a total of nine or fewer employees.

Exposures that pose no significant risk of cancer. For chemicals that are listed as known to the State to cause cancer ("carcinogens"), a warning is not required if the business can demonstrate that the exposure occurs at a level that poses "no significant risk." This means that the exposure is calculated to result in not more than one excess case of cancer in 100,000 individuals exposed over a 70-year lifetime. The Proposition 65 regulations identify specific "no significant risk" levels for more than 250 listed carcinogens.

Exposures that will produce no observable reproductive effect at 1,000 times the level in question. For chemicals known to the State to cause birth defects or other reproductive harm ("reproductive toxicants"), a warning is not required if the business can demonstrate that the exposure will produce no observable effect, even at 1,000 times the level in question. In other words, the level of exposure must be below the "no observable effect level (NOEL)," divided by a 1,000-fold safety or uncertainty factor. The "no observable effect level" is the highest dose level which has not been associated with an observable adverse reproductive or developmental effect.

Discharges that do not result in a "significant amount" of the listed chemical entering into any source of drinking water. The prohibition from discharges into drinking water does not apply if the discharger is able to demonstrate that a "significant amount" of the listed chemical has not, does not, or will not enter any drinking water source, and that the discharge complies with all other applicable laws, regulations, permits, requirements, or orders. A "significant amount" means any detectable amount, except an amount that would meet the "no significant risk" or "no observable effect" test if an individual were exposed to such an amount in drinking water.

HOW IS PROPOSITION 65 ENFORCED?

Enforcement is carried out through civil lawsuits. These lawsuits may be brought by the Attorney General, any district attorney, or certain city attorneys (those in cities with a June 2008 population exceeding 750,000). Lawsuits may also be brought by private parties acting in the public interest, but only after providing notice of the alleged violation to the Attorney General, the appropriate district attorney and city attorney, and the business accused of the violation. The notice must provide adequate information to allow the recipient to assess the nature of the alleged violation. A notice must comply with the information and procedural requirements specified in regulations (Title 27, California Code of Regulations, Section 25903). A private party may not pursue an enforcement action directly under Proposition 65 if one of the governmental officials noted above initiates an action within sixty days of the notice.

A business found to be in violation of Proposition 65 is subject to civil penalties of up to \$2,500 per day for each violation. In addition, the business may be ordered by a court of law to stop committing the violation.

FOR FURTHER INFORMATION...

Contact the Office of Environmental Health Hazard Assessment's Proposition 65 Implementation Office at (916) 445-6900.