

1 WILLIAM VERICK, SBN 140972
2 FREDRIC EVENSON, SBN 198059
3 KLAMATH ENVIRONMENTAL LAW CENTER
4 424 First Street
5 Eureka, CA 95501
6 Telephone: (707) 268-8900
7 Facsimile: (707) 268-8901
8 Email: wverick@igc.org
9 Email: ecorights@earthlink.net

6 DAVID WILLIAMS, SBN 144479
7 BRIAN ACREE, SBN 202505
8 370 Grand Avenue, Suite 5
9 Oakland, CA 94610
10 Telephone: (510) 271-0826
11 Facsimile: (510) 271-0829
12 Email: davidhwilliams@earthlink.net
13 Email: brianacree@earthlink.net

10 Attorneys for Plaintiff, MATEEL
11 ENVIRONMENTAL JUSTICE FOUNDATION

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA
13 FOR THE COUNTY OF SAN FRANCISCO

15 MATEEL ENVIRONMENTAL
16 JUSTICE FOUNDATION,
17 Plaintiff,
18 vs.
19 ORS NASCO, INC.,
20 Defendant.

Case No. CGC 09-490903
CONSENT JUDGMENT

ENDORSED
FILED
San Francisco County Superior Court

DEC 14 2009

GORDON PARK-LI, Clerk
BY: JOCELYN C. ROQUE
Deputy Clerk

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1 **1. INTRODUCTION**

2 1.1 On or about July 17, 2008, a 60 Day Notice Letter ("First Notice Letter")
3 was sent by Mateel to Defendant ORS Nasco, Inc. ("ORS Nasco," or "Settling
4 Defendant") the California Attorney General, all California District Attorneys, and all
5 City Attorneys of each California city with a population exceeding 750,000. The 60 Day
6 Notice alleges, among other things, that Settling Defendant violated the provisions of the
7 Safe Drinking Water and Toxic Enforcement Act of 1986, Health and Safety Code
8 Section 25249.5, et seq. ("Proposition 65"). In particular, Mateel alleged and provided
9 notice of its allegation that Settling Defendant knowingly and intentionally exposed
10 persons to lead and lead compounds in brass components of brass products used in
11 connection with torches and welding equipment and failed to provide a clear and
12 reasonable warning to exposed persons and asserts that such a warning is required by
13 Health and Safety Code Section 25249.6.

14 1.2 On or about August 26, 2009, a second 60 Day Notice Letter ("Second
15 Notice Letter") was sent by Mateel to Defendant ORS Nasco, Inc. the California Attorney
16 General, all California District Attorneys, and all City Attorneys of each California city
17 with a population exceeding 750,000. In the Second Notice Letter Mateel alleges, among
18 other things, that Settling Defendant violated the provisions of the Safe Drinking Water
19 and Toxic Enforcement Act of 1986, Health and Safety Code Section 25249.5, et seq.
20 ("Proposition 65"), and in particular, that Settling Defendant knowingly and intentionally
21 exposed persons to lead and lead compounds from leaded brass components that can be
22 handled in their normal or foreseeable use of equipment manufactured, sold or distributed
23 by Settling Defendant and that Settling Defendant failed to provide a clear and reasonable
24 warning to exposed persons and that such a warning is required by Health and Safety
25 Code Section 25249.6. The products placed at issue by this Second Notice Letter include
26 those made of brass or with brass components and used as welding equipment, safety and
27 security products, pneumatics, measuring and leveling tools, janitorial equipment, hand
28 tools, products and parts used to apply paints and chemicals. HVAC parts and tools.

1 marking tools, maintenance-repair and operations items, corkscrews, drills, drivers, tire
2 inflators, air hoses, welding hoses, and gauges.

3 1.3 For purposes of this consent judgment, "Covered Products" shall be those
4 products with brass components identified in the First 60 Day Notice Letter (attached
5 hereto as Exhibit A) and the Second 60 Day Notice Letter (attached hereto as Exhibit B),
6 which are or have been manufactured, distributed or otherwise marketed by Settling
7 Defendant. The Complaint in this action shall be deemed amended by this Consent
8 Judgment to include all the allegations contained in both the First Notice Letter and the
9 Second Notice Letter.

10 1.4 Settling Defendant is a business that employs ten or more persons and
11 manufactures, distributes, supplies and/or otherwise markets Covered Products within the
12 State of California, which are alleged to contain lead and/or lead compounds. Lead and
13 lead compounds are chemicals known to the State of California to cause cancer, and lead
14 is a chemical known to the State of California to cause reproductive toxicity pursuant to
15 Health and Safety Code Section 25249.8.

16 1.5 For purposes of this Consent Judgment, the parties stipulate that this Court
17 has jurisdiction over the allegations of violations contained in the Complaint and personal
18 jurisdiction over Settling Defendant as to the acts alleged in the Complaint, that venue is
19 proper in the County of San Francisco and that this Court has jurisdiction to enter this
20 Consent Judgment as a full settlement and resolution of the allegations contained in the
21 Complaint and of all claims that were or could have been raised by Mateel, or as to those
22 matters included in the 60 Day Notices, raised by a member of the general public.

23 1.6 This Consent Judgment resolves claims that are denied and disputed. The
24 parties enter into this Consent Judgment pursuant to a full and final settlement of any and
25 all claims between the parties for the purpose of avoiding prolonged litigation. This
26 Consent Judgment shall not constitute an admission with respect to any material allegation
27 of the Complaint, each and every allegation of which Settling Defendant denies, nor may
28

1 this Consent Judgment or compliance with it be used as evidence of any wrongdoing.
2 misconduct, culpability or liability on the part of Settling Defendant.

3 **2. SETTLEMENT PAYMENT.**

4 **2.1** As a payment in lieu of and to offset any civil penalty, Settling Defendant
5 shall pay \$7,000 to Californians for Alternatives to Toxics, a California non profit.
6 corporation for work informing California consumers about exposures to toxics and
7 reducing those exposures

8 **2.2** As a partial payment of the fees and costs incurred by plaintiff Mateel
9 Environmental Justice Foundation, Settling Defendant shall pay to Klamath Environmental
10 Law Center, \$13,000.

11 **2.3** All payments shall be made by check, payable to the above specified payee
12 and mailed, or sent, so as to arrive no later than 40 days after the signing of this Consent
13 Judgment by Mateel and Settling Defendant, to William Verick, Esq., Klamath
14 Environmental Justice Foundation, 424 First Street, Eureka, CA 95501. Payment shall be
15 held by Mateel (i.e., not deposited) until approval and entry of the Consent Judgment by
16 the Court. In the event this Consent Judgment has not been approved within 120 days of
17 the signing of this consent judgment by Settling Defendant, the above payments shall be
18 returned.

19 **3. ENTRY OF CONSENT JUDGMENT**

20 **3.1** The parties hereby request that the Court promptly enter this Consent
21 Judgment. Upon entry of the Consent Judgment, Settling Defendant and Mateel waive
22 their respective rights to a hearing or trial on the allegations of the Complaint.

23 **4. MATTERS COVERED BY THIS CONSENT JUDGMENT**

24 **4.1** This Consent Judgment is a full, final and binding resolution between
25 Settling Defendant and Mateel, acting on behalf of itself and, as to those matters raised in
26 the First and Second 60 Day Notice Letters, in the public interest pursuant to Health and
27 Safety Code section 25249.7(d), of all matters that are or that could have been alleged in
28 the Complaint, including any violation of Proposition 65, or the regulations promulgated

1 thereunder, to the fullest extent that any violation could have been asserted by Mateel
2 against the Settling Defendant based upon, arising out of, or relating to Settling
3 Defendant's compliance with Proposition 65, or regulations promulgated thereunder, with
4 respect to exposures to lead or lead compounds from the Covered Products (and
5 components thereof), whether based on actions committed by Settling Defendant, or by
6 any other entity within the chain of manufacture, distribution and sale of the Covered
7 Products, including, but not limited to, manufacturers, wholesale or retail sellers or
8 distributors and any other person in the course of doing business that manufactured, sold,
9 or distributed the Covered Products. As to alleged lead and lead compound exposures
10 from Covered Products, as expressed in the 60 Day Notice Letters, compliance with the
11 terms of this Consent Judgment resolves any issue, now and in the future, concerning
12 compliance by Settling Defendant and its parents, subsidiaries or affiliates, predecessors,
13 successors, assigns, officers, directors, employees, and all manufacturers, customers,
14 distributors, wholesalers, retailers or any other person in the course of doing business
15 involving the Covered Products, and the successors and assigns of any of these who may
16 manufacture, use, maintain, distribute, market or sell Covered Products, with the current
17 requirements and standards of Proposition 65. This Consent Judgment also is a full, final
18 and binding resolution between Plaintiff and Settling Defendant as to any other claims
19 that could have been asserted against Settling Defendant or its affiliates, parent or
20 subsidiary corporations, divisions, successors, officers, directors, assigns, distributors,
21 manufacturers, retailers, or customers for failure to disclose the presence of lead (or lead
22 compounds) in or associated with use of the Covered Products.

23 4.2 As to alleged chemical exposures associated with Covered Products, Mateel,
24 acting on behalf of itself, and its agents, successors and assigns, waives all rights to
25 institute any form of legal action, and releases all claims against Settling Defendant and
26 its parents, subsidiaries or affiliates, predecessors, officers, directors, employees, and all
27 customers, manufacturers, distributors, wholesalers, retailers, or any other person in the
28 course of doing business involving the Covered Products, and the successors and assigns

1 of any of them. who may manufacture. use. maintain. distribute or sell the Covered
2 Products or components found in the covered products. including. but not limited to, any
3 claims regarding exposure to. and/or failure to warn with respect to, the Covered Products.
4 In furtherance of the foregoing, as to alleged exposures to Covered Products, Mateel
5 hereby waives any and all rights and benefits which it now has, or in the future may have,
6 conferred upon it with respect to claims involving Covered Products by virtue of the
7 provisions of Section 1542 of the California Civil Code, which provides as follows:

8 "A GENERAL RELEASE DOES NOT EXTEND TO
9 CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR
10 SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE
11 TIME OF EXECUTING THE RELEASE, WHICH IF
12 KNOWN BY HIM OR HER MUST HAVE MATERIALLY
13 AFFECTED HIS OR HER SETTLEMENT WITH THE
14 DEBTOR."

12 Mateel understands and acknowledges that the significance and consequence of this
13 waiver of California Civil Code Section 1542 is that even if Mateel suffers future damages
14 arising out of or resulting from, or related directly or indirectly to, in whole or in part, the
15 Covered Products, including but not limited to any exposure to, or failure to warn with
16 respect to exposure to lead or lead compounds from Covered Products, Mateel will not be
17 able to make any claim for those damages against the Settling Defendant, its parents,
18 subsidiaries or affiliates, predecessors, officers, directors, employees, and all customers,
19 manufacturers, distributors, wholesalers, retailers or any other person in the course of
20 doing business involving the Covered Products, and the successors and assigns of any of
21 them, who may manufacture, use, maintain, distribute or sell the Covered Products.
22 Furthermore, Mateel acknowledges that it intends these consequences for any such claims
23 which may exist as of the date of this release but which Mateel does not know exist, and
24 which, if known, would materially affect its decision to enter into this Consent Judgment,
25 regardless of whether its lack of knowledge is the result of ignorance, oversight, error,
26 negligence, or any other cause.

1 **5. ENFORCEMENT OF JUDGMENT**

2 5.1 The injunctive terms of this Consent Judgment shall be enforced exclusively
3 by the parties hereto. The parties may, by noticed motion or order to show cause before
4 the Superior Court of San Francisco County, giving the notice required by law, enforce
5 the injunctive terms and conditions contained herein.

6 5.2 In the event that Mateel acting on behalf of itself or the general public and
7 its agents, successors and assigns, or others, identifies an alleged violation(s) of Paragraph
8 7, it shall notify ORS Nasco in writing, and pursuant to Paragraph 14, of the date, time,
9 place and nature of the alleged violation(s), and include any testing data pertaining to the
10 alleged violation(s). The Notice must be served within 60 days of the date of the alleged
11 violation(s). The parties will meet and confer in good faith for a period of not less than 45
12 days to investigate and attempt to resolve issues regarding alleged violation(s) before
13 seeking relief from the court pursuant to this section.

14 **6. MODIFICATION OF JUDGMENT**

15 This Consent Judgment may be modified only upon written agreement of the
16 parties and upon entry of a modified Consent Judgment by the Court thereon, or upon
17 motion of any party as provided by law and upon entry of a modified Consent Judgment
18 by the Court.

19 **7. INJUNCTIVE RELIEF - CLEAR AND REASONABLE WARNINGS**

20 7.1 The warning requirements set forth in Paragraph 7.2 shall not be required if
21 the Covered Products meet the following standard:

- 22 (a) The Covered Product contains less than 600 ppm lead, or,
23 (b) Any reformulation standard agreed to by the Attorney General and
24 (c) The warning requirements set forth in Paragraph 7.2 also shall not
25 apply to Covered Products or components of Covered Products for
26 which the brass does not come in contact with the user..

27 7.2 Except as provided in paragraph 7.1 above, all products manufactured for
28 sale in California 120 days after entry of this Consent Judgment, Defendant shall provide

1 a Proposition 65 Warning for Covered Products as described below, or according to any
2 warning agreed to by Mateel, or the California Attorney General:

3
4 **PROP 65 WARNING:** This product contains lead and lead compounds,
5 known to the State of California to cause [cancer, and] birth defects or other
6 reproductive harm. *Wash your hands after handling this product.*

7 or

8 **PROP 65 WARNING:** Handling the brass material on this product exposes
9 you to lead, a chemical known to the State of California to cause [cancer,
10 and] birth defects or other reproductive harm. *Wash hands after use.*

11 or

12 **PROP 65 WARNING:** This product contains chemicals, including lead,
13 known to the State of California to cause [cancer, and] birth defects or other
14 reproductive harm. *Wash hands after use.*

- 15 (a) The phrase "PROP 65" may be excluded, or exchanged for
16 "CALIFORNIA PROPOSITION 65" or PROPOSITION 65 at the
17 Defendant's discretion. If included, the phrase "PROP 65" shall be
18 in capitals. The word "WARNING" shall be in capitals. The words
19 "*Wash hands after handling this product*" or "*Wash hands after use.*"
20 shall be italicized or underlined. Inclusion of the bracketed words
21 "cancer, and" in the above warning shall be at Settling Defendant's
22 option. The foregoing does not preclude Settling Defendant from
23 adding a warning for additional Proposition 65 listed chemicals
24 unless the Attorney General advises Settling Defendant that such a
25 warning would be misleading or an over-warning. Such warning
26 shall be affixed to or printed on each Covered Product, its label,
27 package, or instruction booklet and contained in the same section of
28 the label or package that contains other safety warnings, if any,
concerning the use of the Covered Product or near its displayed price
and/or UPC code, and with such conspicuousness, as compared with

1 other words, statements, designs, or devices on the Covered Product,
2 its label, package, instruction booklet or display as to render it likely
3 to be read and understood by an ordinary individual.

4 7.3 If the warning is in an instruction booklet or owners manual pursuant to
5 section 7.2, above, it shall be located in one of the following places of the manual: the
6 outside of the front cover; the inside of the front cover; the first page other than the cover;
7 the outside of the back cover. The warning shall be printed or stamped in the manual or
8 contained in a durable label or sticker affixed to the manual in a font no smaller than the
9 font used for other safety warnings in the manual. Alternatively, the warning may be
10 included in a safety warning section of the owner's manual.

11 7.4 A warning only in the owner's manual of a Covered Product may be used to
12 satisfy the warning requirements of this Section 7 only under the following circumstances:
13 the Covered Product (i) may cause serious injury or bodily harm (other than by means of
14 fire or electrocution) unless used as directed; and/or (ii) is sophisticated, difficult to
15 understand or install, set-up, or assemble; and/or (iii) has one or more features a consumer
16 must read about in order to know how to program or use the Covered Product. However,
17 a Covered Product may not only utilize an owner's manual warning if it meets the
18 following criteria: (a) the Covered Product is unlikely to cause serious injury or bodily
19 harm other than by means of fire or electrocution; (b) the Covered Product is easily
20 assembled or programmed by an ordinary consumer without need to reference
21 instructions; and (c) fundamental operation of the Covered Product is easily understood
22 and commonly performed by an ordinary consumer without training or need to reference
23 operating instructions.

24 8. AUTHORITY TO STIPULATE

25 Each signatory to this Consent Judgment certifies that he or she is fully authorized
26 by the party he or she represents to enter into this Consent Judgment and to execute it on
27 behalf of the party represented and legally to bind that party.

1 **9. RETENTION OF JURISDICTION**

2 This Court shall retain jurisdiction of this matter to implement the Consent
3 Judgment.

4 **10. GOVERNING LAW**

5 The validity, construction and performance of this Consent Judgment shall be
6 governed by the laws of the State of California, without reference to any conflicts of law
7 provisions of California law.

8 **11. FEES AND EXPENSES**

9 The parties acknowledge and agree that, except as set provided in Section 2.1 of
10 this Consent Judgment, each party shall bear its own costs and attorneys fees.

11 **12. NOTICES**

12 All notices and other communications hereunder shall be communicated to all
13 parties in writing and shall be delivered or mailed by registered or certified mail,
14 postage prepaid and with return receipt requested. Hand-delivered notices shall be
15 deemed communicated when received. Mailed notices shall be deemed
16 communicated as of three (3) full business days after mailing, if mailed, on a
17 business day to the following respective addresses:

18
19 **ORS NASCO:** **Gary M. Roberts**
20 **Sonnenschein Nath & Rosenthal LLP**
21 **601 South Figueroa Street, #2500**
 Los Angeles, CA 90071

22 **With a copy to** **General Counsel**
23 **ORS Nasco, Inc.**
24 **2348 E. Shawnee Bypass**
 Muskogee, OK 74403

25 **MATEEL** **William Verick, Esq.**
26 **Klamath Environmental Law Center**
27 **424 First Street**
28 **Eureka, CA 95501**

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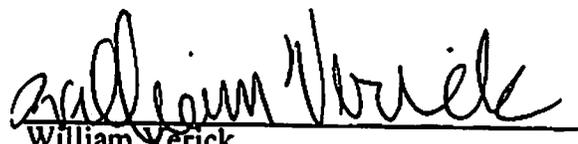
13. COURT APPROVAL

If this Consent Judgment is not approved by the Court, it shall be of no force or effect, and cannot be used in any proceeding for any purpose.

IT IS SO STIPULATED:

Dated: _____

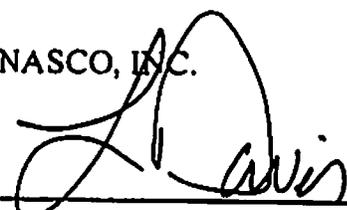
MATEEL ENVIRONMENTAL JUSTICE FOUNDATION



William Verick
CEO Mateel Environmental Justice Foundation,
Klamath Environmental Law Center

Dated: October 29, 2009

ORS NASCO, INC.



By: Larry D. Davis
Its: General Manager

IT IS SO ORDERED, ADJUDGED AND DECREED:

DEC 14 2009

Dated: _____

A. JAMES ROBERTSON, II

JUDGE OF THE SUPERIOR COURT

**CONSENT JUDGMENT
EXHIBIT A**



July 17, 2008

EDWARD G. WEIL
DEPUTY ATTORNEY GENERAL
OFFICE OF THE ATTORNEY GENERAL
P.O. BOX 70550
OAKLAND CA 94612-0550

Greetings:

This office and the Mateel Environmental Justice Foundation ("Mateel") give you notice that the private companies listed on the attached service list, have been, are, will be and threaten to be in violation of Cal. Health & Safety Code § 25249.6. Both this office and Mateel are private enforcers of Proposition 65, both may be contacted at the below listed address and telephone number, and I am a responsible individual at both Mateel and this office. The above referenced violations occur when California residents come into contact with brass components of equipment used in connection with torches and welding equipment. These components include brass valves, nozzles, brass quick connects, brass couplers and brass regulators (collectively hereinafter "brass components"). The listed businesses market these products. A list of specific examples of the specific types of products at issue is attached. Though specific model and UPC numbers are given as examples, this notice pertains to all similar types of brass components. The brass components that people handle are made from leaded brass, which contains lead and lead compounds ("lead"), which are chemicals known to cause cancer, birth defects and other reproductive harm. California residents are exposed to lead when they handle these brass components. Lead is transferred from the brass components to peoples' hands and to other parts of their skin. This lead is then absorbed through the skin, taken into cuts and abrasions, absorbed through mucous membranes, and transferred from the skin to the mouth via oral contact either directly with the lead-contaminated skin, and when lead is transferred from contaminated skin to cigarettes and food and the contaminated cigarettes and food are smoked and/or eaten. These lead exposures thus occur via the dermal absorption, subcutaneous, mucous membrane, ingestion and inhalation routes. The listed companies did not and do not provide people with clear and reasonable warnings before they expose them to lead. These violations have occurred every day since at least July 17, 2005, and will continue every day until the lead is removed from the brass components, or until clear and reasonable warnings are given. The above-referenced violations are alleged for occupational exposures as well as for consumer and environmental exposures. We do not, however, allege occupational exposure violations as to any brass components made outside of California, except as to workplaces the companies themselves maintain in California. Exposures constituting Proposition 65 environmental exposure violations occur both on and off the companies private business properties and in each of California's 58 counties.

Cordially,

William Verick

CERTIFICATE OF MERIT

I, William Verick, hereby declare: This Certificate of Merit accompanies the attached sixty-day notice(s) 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: July 17, 2008



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 July 17, 2008, I caused the attached 60-DAY NOTICE 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 60-DAY NOTICE LETTER 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 July 17, 2008, at Eureka, California.



Nicole Frank

PRODUCTS LIST

THE ESAB GROUP, INC.

PREST-O-LITE AIR-GAS SOFT FLAME KIT P/N 639297 UPC CODE: 662067 012824 This product description pertains not only to the specific model of the product listed, but also for all units of all models of valves (including the valve handles) regulators, connector hoses with brass fittings, and other brass fittings that are associated with the use of flammable compressed gasses.

GOSS, INC.

ACETYLENE REGULATOR WITH GAUGE B EA-1G, CGA250, A HOSE

UPC CODE: 662999 018147; AI- PROPANE TIP BP-2 TIP, AIR-LP UPC CODE: 662999 016297

These product descriptions pertain not only to the specific models of the products listed, but also for all units of all models of valves (including the valve handles) regulators, connector hoses with brass fittings, and other brass fittings that are associated with the use of flammable compressed gasses.

O.K.I. SUPPLY CO.

OKI BERING

BEST WELDS TWIN WELDING HOSE 1/4" X 25' B&B FITTING PART NO. RH-2102 STOCK NO. EOC1425 UPC CODE: 606230 007866 This product description pertains not only to the specific model of the product listed, but also for all units of all models of valves (including the valve handles) regulators, connector hoses with brass fittings, and other brass fittings that are associated with the use of flammable compressed gasses.

ORS NASCO CO.

ANCHOR BRAND TWIN WELDING HOSE FOR ACETYLENE GAS GRADE R, 3/15" X 50' B-B FITTINGS PART # LB503 UPC CODE: 604669 168172 This product description pertains not only to the specific model of the product listed, but also for all units of all models of valves (including the valve handles) regulators, connector hoses with brass fittings, and other brass fittings that are associated with the use of flammable compressed gasses.

SERVICE LIST

EDWARD G. WEIL
DEPUTY ATTORNEY GENERAL
OFFICE OF THE ATTORNEY
GENERAL
P.O. 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 94101

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
701 COURT STREET
JACKSON, CA 95642

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF BUTTE
25 COUNTY CENTER DR.
OROVILLE, CA 95963

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 COLLUSA
347 MARKET STREET
COLLUSA, 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
213 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 410
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 91326

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF KERN
1215 TRUXTON 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
15000 CRIMINAL COURTS
BUILDING
216 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
BRIDGECRFT, CA 93617

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF MONTEREY
240 CHURCH STREET
P.O. BOX 1131
SALINAS, CA 91902

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

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF NEVADA
COURTHOUSE ANNEX
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
11562 B AVE
AUBURN, CA 95601-2687

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 BERNITO
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
SAN DIEGO, CA 92101

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN FRANCISCO
250 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
1523 COURT ST.
REDDING, CA 96001

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

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SISKIYOU
P.O. BOX 916
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. #2121
SANTA ROSA, CA 95403

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF STANISLAUS
1100 I ST. #200
MODOESTO, 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 319
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 91291

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

VENTURA COUNTY DISTRICT
ATTORNEY'S OFFICE
100 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

BRENDAN COLGAN, CEO
THE ESAB GROUP, INC.
411 S EBENEZER RD
FLORENCE, SC 29501

BRENDAN COLGAN, CEO
THE ESAB GROUP, INC.
2573 PIEDMONT ROAD
15 PIEDMNT CTR STE L 120
ATLANTA, GA 30305

JACQUELINE F. GOSS, PRESIDENT
GOSS INC.
1311 ROUTE 6
GLENSHAW, PA 15116

JACQUELINE F. GOSS, PRESIDENT
GOSS INC.
2532 RED OAK COURT
ALLISON PARK, PA 15101

JOSEPH H. DILLHOFF, JR., PRESIDENT
WILLIAM A. RICE, CEO
O.K.I. SUPPLY CO.
OKI BERLING
600 VINE ST, SUITE 2700
CINCINNATI, OH 45202

JOSEPH H. DILLHOFF, JR., PRESIDENT
WILLIAM A. RICE, CEO
O.K.I. SUPPLY CO.
OKI BERLING
9901 PRINCETON GLENDALE ROAD
CINCINNATI, OH 45246

WILLIAM K. SCHELLER, CEO
NRS NASCO, INC.
2348 E SHAWNEE BYPASS
MUSKOGEE, OK 74403

**CONSENT JUDGMENT
EXHIBIT B**

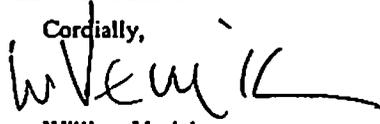


August 27, 2009

EDWARD G. WEIL
DEPUTY ATTORNEY GENERAL
OFFICE OF THE ATTORNEY GENERAL
P.O. BOX 70550
OAKLAND CA 94612-0550

Greetings:

This office and the Mateel Environmental Justice Foundation ("Mateel") give you notice that the private businesses on the attached service list have been, are, will be and threaten to be in violation of Cal. Health & Safety Code § 25249.6. Both this office and Mateel are private enforcers of Proposition 65, both may be contacted at the below-listed address and telephone number, and I am a responsible individual at both Mateel and this office. The above referenced violations occur when California residents come into contact with products that are made of, or that incorporate parts made of, brass and/or bronze (collectively "brass products"). The above referenced violations occur when California residents come into contact with brass components that can be handled in the normal or foreseeable use of equipment manufactured, sold or distributed by ORS Nasco (and the other businesses listed on the service list). These brass components are found in welding equipment, safety and security products, pneumatics, measuring and leveling tools, janitorial equipment, hand tools, products and parts used to apply paints and chemicals, HVAC parts and tools, marking tools, and maintenance, repair and operations items, corkscrews, drills and drivers, tire inflators, air hoses, welding hoses and gauges (collectively hereinafter "brass components"). Though the products on the attached list are listed with a product number or SKU, this notice pertains to all products of the same specific type, not just to those products, the specific numbers for which are listed in the product list. The brass products are made in whole, or in part, from leaded brass, which contains lead and lead compounds ("lead"), which are chemicals known to cause cancer, birth defects and other reproductive harm. California residents are exposed to lead whenever they handle these brass products, such as when buying them, when handling them, or when using them. Lead is transferred from the brass products to their hands and to other parts of their skin. This lead is then absorbed through the skin, taken into cuts and abrasions, absorbed through mucous membranes, and transferred from the skin to the mouth via oral contact either directly with the lead-contaminated skin, and when lead is transferred from contaminated skin to cigarettes and food and the contaminated cigarettes and food are smoked and/or eaten. These lead exposures thus occur via the dermal absorption, subcutaneous, mucous membrane, ingestion and inhalation routes. The listed businesses did not and do not provide people with clear and reasonable warnings before they expose them to lead. These violations have occurred every day since at least August 27, 2006, and will continue every day until the lead is removed from the brass products, or until clear and reasonable warnings are given. The above-referenced violations are alleged for occupational exposures as well as for consumer and environmental exposures. We do not, however, allege occupational exposure violations as to any brass products made outside of California, except as to workplaces these companies themselves maintain in California. Exposures constituting Proposition 65 environmental exposure violations occur both on and off the companies' property and in each of California's 58 counties.

Cordially,

William Verick

424 First Street, Eureka, CA 95501 • 707.268.8900 (phone) 707.268.8901 (fax)

SERVICE LIST

EDWARD G. WEIL
DEPUTY ATTORNEY GENERAL
OFFICE OF THE ATTORNEY
GENERAL
P.O. BOX 70350
OAKLAND, CA 94612-0350

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 95842

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
430 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
220 TULARE ST #100
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 92543

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

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF KERN
1215 TRUXTON 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
235 N. FORBES ST. # 424
LAKEPORT, CA 95453

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220 SOUTH LASSEN ST. STE 8
SUSANVILLE, CA 96130

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

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MADERA, CA 93637

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P.O. BOX 710
MARIPOSA, CA 95338

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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
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204 SOUTH COURT STREET
ALTURAS, CA 96101

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF MONO
P.O. BOX 417
BRIDGEPORT, CA 95317

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF MONTEREY
240 CHURCH STREET
P.O. BOX 1131
SALINAS, CA 95902

COUNTY OF NAPA
931 PARKWAY MALL
P.O. BOX 710
NAPA, CA 94559-0710

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 92415-4004

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. WEDDING 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.
PERDINGO, CA 96001

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SIERRA
P.O. BOX 487
DOWNSVILLE, CA 95916

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF SISKIYOU
P.O. BOX 916
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. #2121
SANTA ROSA, CA 95403

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF STANISLAUS
1100 I ST. #200
MODESTO, CA 95334

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

OFFICE OF THE DISTRICT
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COUNTY OF TEHAMA
P.O. BOX 319
REDBLUFF, CA 96080

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WEAVERVILLE, CA 96093

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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

DONALD TOLLISON, PRESIDENT
BALKAMP, INC
2601 S. HOLT RD.
INDIANAPOLIS, IN 46241

JACK BURNS, PRESIDENT
COLHOSÉ PNEUMATICS, INC.
19 KIMBERLY RD
EAST BRUNSWICK, NJ 08816

MARK DALEY, CEO
DEAN & DELUCA, INC
2402 E. 37TH ST N
WICHITA, KS 67219

MARK DALEY, CEO
DEAN & DELUCA, INC
560 BROADWAY
NEW YORK, NY 10012

RICHARD BELL, CEO
GATES CORPORATION
1551 WEWATTA STREET
DENVER, CO 80202

ROBERT J. KEEGAN, CEO
GOODYEAR TIRE & RUBBER CO
1144 EAST MARKET STREET
AKRON, OH 44314

JEFFREY S. BLEEKER, CEO
INNOVATIONS IN CYCLING, INC
3700 E. BILBY RD BLDG C
TUCSON, AZ 85706

ROBERT A. NBLOCK, CEO
LOWES HW, INC
101 ANDOVER PARK E., SUITE 200
TUKWILA, WA 98188

WILLIAM K. SCHELLER, CEO
ORS NASCO, INC.
2348 E. SHAWNEE BYPASS
MUSKOGEE, OK 74403

TIMOTHY R. TOPPEN, CEO
VEYANCE TECHNOLOGIES, INC.
1144 EAST MARKET STREET
AKRON, OH 44314

PRODUCTS LIST

BALKAMP, INC.

NAPA SELF STORING AIR HOSE 1/4" IN X 12' - 1/4" MALE NPT 715-1510 UPC CODE: 664766 062605 This product description pertains not only to the specific model of the product listed, but also for all units of all models of hose couplers, air or gas hoses that have components or accessories that utilize brass.

COLLHOUSE PNEUMATICS, INC.

MULTI-PURPOSE HOSE 1/4" ID X 12' , 1/4" MPT #R14012N UPC CODE: 029292 298308 This product description pertains not only to the specific model of the product listed, but also for all units of all models of hose couplers, air or gas hoses that have components or accessories that utilize brass.

DEAN & DELUCA, INC.

GATTORNA CLASSIC CORKSCREW-VOILA ITEM #105600 This product description pertains not only to the specific model of the product listed, but also for all units of all models of utensils that utilize brass.

GATES CORPORATION

NAPA 400S AIR HOSE 1/4" X 25' - 300 PSI H240 3215-6101 UPC CODE: 029769 35085 This product description pertains not only to the specific model of the product listed, but also for all units of all models of hose couplers, air or gas hoses that have components or accessories that utilize brass.

INNOVATIONS IN CYCLING, INC.

ULTRAFLATE PLUS CONTROLLABLE CO2 TIRE INFLATOR RM00283 REVD UPC CODE: 708162 024253 This product description pertains not only to the specific model of the product listed, but also for all units of all models of tools and/or accessories that utilize brass.

LOWE'S COMPANIES, INC.

BRASS HOSE COUPLERS/ACCESSORIES:

KOBALT 1/4" NPT INDUSTRIAL COUPLER #000352 UPC CODE: 879686 001492; KOBALT 25 FT DELUXE POLYURETHANE RECOIL AIR HOSE #061497 UPC CODE: 831868 002208; KOBALT 3/8" COUPLER/PLUG KIT #177219 UPC CODE: 879686 001539; KOBALT INFLATION KIT #179681 UPC CODE: 879686 001959; TASK FORCE 16PC PNEUMATIC ACCESSORY KIT ITEM# 193551 MODEL # SGY-KIT-F UPC CODE: 879686 000617; KOBALT 1/4" FIELD REPAIRABLE INDUSTRIAL COUPLER WITH CLAMP #127962 UPC CODE: 879686 001508; KOBALT 1/4" U COUPLING #129967 UPC CODE: 879686 001485; KOBALT 3/8" X 3/8" NPT COUPLING #002271 UPC CODE: 879686 001980 TASK FORCE 16PC PNEUMATIC ACCESSORY KIT ITEM# 193551 MODEL # SGY-KIT-F UPC CODE: 879686 000617 BRASS TOOLS: KOBALT #8 DRILL AND DRIVER #280534 UPC CODE: 051667 800939 These product descriptions pertain not only to the specific models of the products listed, but also for all units of all models of hose couplers, tools and accessories that utilize components or accessories made of brass.

ORS NASCO, INC.

ANCHOR TWIN WELDING HOSE 3/16" X 25' UPC CODE: 604669 169285; ANCHOR TWIN WELDING HOSE 3/16" X 12.5' UPC CODE: 604669 169513; ANCHOR BRAND TWIN WELDING HOSE FOR ACETYLENE GAS 1-EA GRADER 1/4" X 25' B-B PART# LB254 UPC CODE: 604669 168219; ANCHOR BRAND TWIN WELDING HOSE 3/16" X 12.5' B-B PART #LB123 GRADE R UPC CODE: 604669 168103; ANCHOR BRAND TWIN WELDING HOSE 3/16" X 25' B-B PART#LB253 UPC CODE: 604669 168141; ANCHOR BRAND TWIN WELDING HOSE FOR ACETYLENE GAS GRADE R, 3/16" X 50' B-B FITTINGS PART NO# LB503 UPC CODE: 604669 168172 This product description pertains not only to the specific model of the product listed, but also for all units of all models of valves " (including the valve handles) regulators, connector hoses and accessories that utilize brass fittings, and other brass fittings that are associated with the use of flammable compressed gasses.

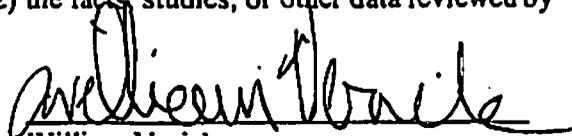
VEYANCE TECHNOLOGIES, INC./GOODYEAR TIRE & RUBBER COMPANY/W.W. GRAINGER, INC.

DAYTON 3/8" IN X 2.5' PVC AIR WHIP HOSE RD #11AFJ1; DAYTON MULTI PURPOSE HOSE 1/4" X 25' LENGTH 1/4" FITTINGS ITEM 3JT63; SPEEDAIRE MULTI PURPOSE HOSE 1/4" X 50' 1/4" FITTINGS ITEM 2Z010 These product descriptions pertain not only to the specific models of the products listed, but also for all units of all models of hose couplers, air or gas hoses that have components or accessories that utilize brass.

CERTIFICATE OF MERIT

I, William Verick, hereby declare: This Certificate of Merit accompanies the attached sixty-day notice(s) 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: August 27, 2009

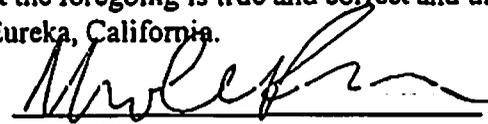

William Verick

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 August 27, 2009, I caused the attached 60-DAY NOTICE 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 60-DAY NOTICE LETTER 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 August 27, 2009, at Eureka, California.


Nicole Frank