

SHUTE, MIHALY
& WEINBERGER LLP

396 HAYES STREET, SAN FRANCISCO, CA 94102
T: 415 552-7272 F: 415 552-5816
www.smwlaw.com

ELLISON FOLK
Attorney
folk@smwlaw.com

June 3, 2010

**ATTORNEY GENERAL COPY: CONTAINS OFFICIAL
INFORMATION PER EVIDENCE CODE § 1040**

**NOTICE OF VIOLATION OF
CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.**

Dear Public Enforcement Agencies:

Shute, Mihaly & Weinberger LLP ("Firm") represents As You Sow ("AYS"), a non-profit foundation organized under California's Non-Profit Public Benefit Corporation Law. AYS is dedicated to, among other causes, the protection of the environment, the promotion of human health, the improvement of worker and consumer safety, and environmental education.

This firm and AYS have documented violations of California's Safe Drinking Water & Toxic Enforcement Act of 1986 ("Proposition 65"), codified at Health & Safety Code §25249.5 et seq. This letter serves to provide this Firm's and AYS' notification of these violations to the public enforcement agencies. Pursuant to §25249.7(d) of the statute, this Firm intends to bring an enforcement action on behalf of AYS sixty (60) days after effective service of this notice unless the public enforcement agencies have commenced and are diligently prosecuting an action to rectify these violations.

A summary of the statute and its implementing regulations, which was prepared by the lead agency designated under the statute, is enclosed with the copy of this notice served upon the violator. The specific details of the violations that are the subject of this notice are provided below.

Alleged violators. The name of the violator covered by this notice is POR-15, Inc.

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Chemicals. These violations involve exposures to Ethylbenzene (EB) from the products listed below. On June 11, 2004, the State of California officially listed EB as a chemical known to cause cancer.

Consumer products. The products that are the subject of this notice are Hardnose, White Cote, Accelerator-Hardener, Self Etching Primer (aerosol), Floor Armor Part A, Floor Armor Part B, Self Etching Primer (liquid), and GlistenPC, sold and/or distributed by POR-15, Inc., in California.

Route of exposure. Use of the product identified in this notice results in human exposures to EB. The routes of exposure include ingestion via hand to mouth contact after consumers touch or handle the product; dermal absorption directly through the skin and eyes when consumers touch or handle the product; inhalation when consumers breathe near the products; and direct ingestion if consumers transfer the product from their fingertips to their mouth. No clear and reasonable warning is provided with this product regarding the carcinogenic hazards of EB.

Duration of violations. Each of these ongoing violations has occurred on every day since at least June 3, 2009, as well as every day since the products were introduced in the California marketplace, and will continue every day until clear and reasonable warnings are provided to product purchasers and users or until these known toxic chemicals are removed from the products.

Pursuant to Title 11, C.C.R. § 3100, a certificate of merit is attached hereto.

In keeping with its public interest mission and to expeditiously rectify these ongoing violations of California law, AYS is interested in seeking a constructive resolution of this matter without engaging in costly and protracted litigation. You may communicate directly with As You Sow to discuss an early resolution of this matter by contacting Larry Fahn, Executive Director, or Kara Buchner, Staff Attorney, 311 California Street, Suite 510, San Francisco, CA 94104, 415-391-3212. You may also contact AYS' counsel:

Ellison Folk
Shute, Mihaly & Weinberger LLP
396 Hayes Street
San Francisco, CA 94102
PH: 415.552.7272; Fax: 415.552.5816
Email: efolk@smwlaw.com

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& WEINBERGER LLP

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Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP

A handwritten signature in black ink, appearing to read "EF", is positioned above the name Ellison Folk.

Ellison Folk

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SHUTE, MIHALY
& WEINBERGER LLP

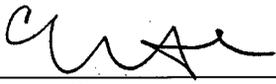
CERTIFICATE OF MERIT

(Notice of Proposition 65 Violation on POR-15, Inc.)

I, Ellison Folk, declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged that the party in the notice has violated section 25249.6 of the Health and Safety Code by failing to provide clear and reasonable warnings.
2. I am an attorney for the noticing party.
3. I have consulted with one or more persons with relevant and appropriate experience or expertise who has reviewed facts, studies, or other data regarding exposure to the listed chemicals that are the subject of the action.
4. 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 plaintiff's case can be established and that the information did not prove that the alleged violator will be able to establish any of the affirmative defenses set forth in the statute.
5. 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 section 25249.7(h)(2) of the Health and Safety Code, i.e., (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

Dated: 6-3-2010



Ellison Folk

Enclosure (For Attorney General Copy only)

(1) An action is deemed to have been "commenced more than sixty days after the person has given notice" where more than sixty days have elapsed from the date of service of the notice, as that date would be calculated for service of a document pursuant to the provisions of Code of Civil Procedure Section 1013.

(2) Where the sixtieth day after giving notice is a day identified as a "holiday" as defined in Code of Civil Procedure Section 12a, then the "sixtieth day" shall be extended to the next day which is not a "holiday".

(3) Determination of the first and last day shall be made in accordance with Section 12 of the Code of Civil Procedure.

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

HISTORY

1. New section and Appendix A filed 4-22-97; operative 4-22-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 17).
2. Amendment of section and Appendix A filed 1-7-2003; operative 2-6-2003 (Register 2003, No. 2).

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 12000 through 14000.

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.

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 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 22, California Code of Regulations, Section 12903). 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.

CERTIFICATE OF SERVICE

I, the undersigned, declare under penalty of perjury under the laws of the State of California that the following is true and correct:

I am a citizen of the United States, over the age of 18 years, and not a party to the within action; my business address is: 396 Hayes Street, San Francisco, CA 94102.

On June 3, 2010, I served the following documents:

- Notice of Violation of California Health & Safety Code § 25249.5 et seq.
- Certificate of Merit
- "The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary"

on the following party by placing a true and correct copy thereof in a sealed envelope, addressed to the party listed below, and depositing it at a United States Postal Service Office for delivery by Certified Mail:

Tom Slutsker/Chris Wright
POR-15, Inc.
64 South Jefferson Road, Suite 2
Whippany, NJ 07981-1014

On June 3, 2010, I served the following document(s):

- Notice of Violation of California Health & Safety Code § 25249.5 et seq.
- Certificate of Merit, including Supporting Documentation Required by Title 11, C.C.R. § 3102

on the following party by placing a true and correct copy thereof in a sealed envelope, addressed to the party listed below, and depositing it at a United States Postal Service Office for delivery by Certified Mail:

Proposition 65 Enforcement Reporting
Attention: Prop 65 Coordinator
1515 Clay Street, Suite 2000
Post Office Box 70550
Oakland, California 94612-0550

On June 3, 2010, I served the following document(s):

- Notice of Violation of California Health & Safety Code § 25249.5 et seq.
- Certificate of Merit

THE HONORABLE NANCY E. O'MALLEY
ALAMEDA COUNTY DISTRICT ATTORNEY
1225 FALLON ST RM 900
OAKLAND CA 94612

THE HONORABLE ROBERT HOLZAPFEL
GLENN COUNTY DISTRICT ATTORNEY
PO BOX 430
540 WEST SYCAMORE STREET
WILLOWS CA 95988

THE HONORABLE EDWARD BERBERIAN
MARIN COUNTY DISTRICT ATTORNEY
3501 CIVIC CTR DR RM 130
SAN RAFAEL CA 94903-4164

THE HONORABLE WILLIAM RICHMOND
ALPINE COUNTY DISTRICT ATTORNEY
PO BOX 248
MARKLEEVILLE CA 96120

THE HONORABLE PAUL GALLEGOS
HUMBOLDT COUNTY DISTRICT ATTORNEY
825 FIFTH ST, 4TH FLOOR
EUREKA CA 95501

THE HONORABLE ROBERT BROWN
MARIPOSA COUNTY DISTRICT ATTORNEY
PO BOX 730
5101 JONES STREET
MARIPOSA CA 95338

THE HONORABLE TODD D RIEBE
AMADOR COUNTY DISTRICT ATTORNEY
708 COURT ST STE 202
JACKSON CA 95642

THE HONORABLE GILBERT OTERO
IMPERIAL COUNTY DISTRICT ATTORNEY
939 W MAIN ST, SUITE 102
EL CENTRO CA 92243

THE HONORABLE MEREDITH LINTOTT
MENDOCINO COUNTY DISTRICT ATTORNEY
100 NORTH STATE STREET
PO BOX 1000
UKIAH CA 95482

THE HONORABLE MICHAEL RAMSEY
BUTTE COUNTY DISTRICT ATTORNEY
25 COUNTY CTR DR #245
OROVILLE CA 95965-3370

THE HONORABLE ARTHUR MAILLET
INYO COUNTY DISTRICT ATTORNEY
168 N. EDWARDS STREET
INDEPENDENCE CA 93526-0604

THE HONORABLE LARRY MORSE II
MERCED COUNTY DISTRICT ATTORNEY
650 W., 20TH STREET
MERCED CA 95340

THE HONORABLE JEFFREY TUTTLE
CALAVERAS COUNTY DISTRICT ATTORNEY
891 MTN RANCH RD
SAN ANDREAS CA 95249

THE HONORABLE EDWARD R JAGELS
KERN COUNTY DISTRICT ATTORNEY
1215 TRUXTUN AVE
BAKERSFIELD CA 93301

THE HONORABLE GARY WOOLVERTON
MODOC COUNTY DISTRICT ATTORNEY
204 S COURT ST RM 202
ALTURAS CA 96101-4020

THE HONORABLE JOHN POYNER
COLUSA COUNTY DISTRICT ATTORNEY
346 5TH STREET
COLUSA CA 95932

THE HONORABLE RON CALHOUN
KINGS COUNTY DISTRICT ATTORNEY
1400 W LACEY BLVD
HANFORD CA 93230

THE HONORABLE GEORGE BOOTH
MONO COUNTY DISTRICT ATTORNEY
PO BOX 617
BRIDGEPORT CA 93517

THE HONORABLE ROBERT KOCHLY
CONTRA COSTA COUNTY DIST. ATTORNEY
900 WARD STREET
MARTINEZ CA 94553

THE HONORABLE JON HOPKINS
LAKE COUNTY DISTRICT ATTORNEY
255 N FORBES ST
LAKEPORT CA 95453

THE HONORABLE DEAN FLIPPO
MONTEREY COUNTY DISTRICT ATTORNEY
PO BOX 1131
SALINAS CA 93902

THE HONORABLE MICHAEL RIESE
DEL NORTE COUNTY DISTRICT ATTORNEY
450 H ST STE 171
CRESCENT CITY CA 95531

THE HONORABLE ROBERT BURNS
LASSEN COUNTY DISTRICT ATTORNEY
220 S LASSEN ST STE 8
SUSANVILLE CA 96130

THE HONORABLE GARY LIEBERSTEIN
NAPA COUNTY DISTRICT ATTORNEY
931 PARKWAY MALL
NAPA CA 94559

THE HONORABLE VERNON PIERSON
EL DORADO COUNTY DISTRICT ATTORNEY
515 MAIN ST
PLACERVILLE CA 95667

THE HONORABLE STEVE COOLEY
LA COUNTY DISTRICT ATTORNEY
210 W TEMPLE ST ROOM 18-709
LOS ANGELES CA 90012

THE HONORABLE CLIFFORD NEWELL
NEVADA COUNTY DISTRICT ATTORNEY
110 UNION STREET
NEVADA CITY CA 95959

THE HONORABLE ELIZABETH EGAN
FRESNO COUNTY DISTRICT ATTORNEY
2220 TULARE ST STE 1000
FRESNO CA 93721

THE HONORABLE MICHAEL R. KEITZ
MADERA COUNTY DISTRICT ATTORNEY
209 W YOSEMITE AVE
MADERA CA 93637

THE HONORABLE TONY RACKAUCKAS
ORANGE COUNTY DISTRICT ATTORNEY
401 CIVIC CTR DR WEST
SANTA ANA CA 92701

THE HONORABLE BRAD FENOCCHIO
PLACER COUNTY DISTRICT ATTORNEY
10810 JUSTICE CENTER DRIVE, #240
ROSEVILLE CA 95678

THE HONORABLE JAMES P FOX
SAN MATEO COUNTY DISTRICT ATTORNEY
400 COUNTY CTR FL 3
REDWOOD CITY CA 94063

THE HONORABLE CARL V ADAMS
SUTTER COUNTY DISTRICT ATTORNEY
446 SECOND ST, #102
YUBA CITY CA 95991

THE HONORABLE JEFF CUNAN
PLUMAS COUNTY DISTRICT ATTORNEY
520 MAIN ST RM 404
QUINCY CA 95971

THE HONORABLE CHRISTIE STANLEY
SANTA BARBARA COUNTY DIST. ATTORNEY
1112 SANTA BARBARA ST
SANTA BARBARA CA 93101

THE HONORABLE GREGG COHEN
TEHAMA COUNTY DISTRICT ATTORNEY
PO BOX 519
RED BLUFF CA 96080

THE HONORABLE RODRIC PACHECO
RIVERSIDE COUNTY DISTRICT ATTORNEY
3972 ORANGE STREET
RIVERSIDE CA 92501

THE HONORABLE DOLORES CARR
SANTA CLARA COUNTY DIST. ATTORNEY
70 W HEDDING ST WEST WING
SAN JOSE CA 95110

THE HONORABLE MICHAEL HARPER
TRINITY COUNTY DISTRICT ATTORNEY
PO BOX 310
WEAVERVILLE CA 96093

THE HONORABLE JAN SCULLY
SACRAMENTO COUNTY DIST. ATTORNEY
901 G ST
SACRAMENTO CA 95814

THE HONORABLE BOB LEE
SANTA CRUZ COUNTY DIST. ATTORNEY
701 OCEAN ST RM 200
SANTA CRUZ CA 95060

THE HONORABLE PHILLIP J CLINE
TULARE COUNTY DISTRICT ATTORNEY
221 S MOONEY BLVD RM 224
VISALIA CA 93291

THE HONORABLE CANDICE HOOPER
SAN BENITO COUNTY DISTRICT ATTORNEY
419 FOURTH ST
HOLLISTER CA 95023

THE HONORABLE GERALD C. BENITO
SHASTA COUNTY DISTRICT ATTORNEY
1525 COURT ST FL 3
REDDING CA 96001

THE HON. DONALD I SEGERSTROM, JR
TUOLUMNE COUNTY DIST. ATTORNEY
423 N WASHINGTON ST
SONORA CA 95370

THE HONORABLE MICHAEL RAMOS
SAN BERNARDINO COUNTY
DISTRICT ATTORNEY
316 N MTN VIEW AVE
SAN BERNARDINO CA 92415-0004

THE HONORABLE LAWRENCE ALLEN
SIERRA COUNTY DISTRICT ATTORNEY
PO BOX 457
DOWNIEVILLE CA 95936

THE HONORABLE GREG TOTTEN
VENTURA COUNTY DISTRICT ATTORNEY
800 S VICTORIA AVE
VENTURA CA 93009

THE HONORABLE BONNIE DUMANIS
SAN DIEGO COUNTY DISTRICT ATTORNEY
330 W BROADWAY, SUITE 1300
SAN DIEGO CA 92101

THE HONORABLE JAMES ANDRUS
SISKIYOU COUNTY DISTRICT ATTORNEY
PO BOX 986
YREKA CA 96097

THE HONORABLE JEFF REISIG
YOLO COUNTY DISTRICT ATTORNEY
301 SECOND ST
WOODLAND CA 95695

THE HONORABLE KAMALA HARRIS
SAN FRANCISCO COUNTY
DISTRICT ATTORNEY
850 BRYANT ST RM 322
SAN FRANCISCO CA 94103

THE HONORABLE DAVID W PAULSON
SOLANO COUNTY DISTRICT ATTORNEY
675 TEXAS ST STE 4500
FAIRFIELD CA 94533

THE HONORABLE PATRICK MCGRATH
YUBA COUNTY DISTRICT ATTORNEY
215 FIFTH ST, #152
MARYSVILLE CA 95901

THE HONORABLE JAMES WILLETT
SAN JOAQUIN COUNTY DIST. ATTORNEY
PO BOX 990
STOCKTON CA 95201-0990

THE HONORABLE STEPHAN PASSALACQUA
SONOMA COUNTY DISTRICT ATTORNEY
600 ADMINISTRATION DR RM 212-J
SANTA ROSA CA 95403

LOS ANGELES CITY ATTORNEY'S OFFICE
200 N MAIN ST, FLOOR 8
LOS ANGELES CA 90012

THE HONORABLE GERALD T SHEA
SAN LUIS OBISPO COUNTY
DISTRICT ATTORNEY
COURTHOUSE ANNEX 4TH FLOOR
SAN LUIS OBISPO CA 93408

THE HONORABLE BIRGIT FLADAGER
STANISLAUS COUNTY DISTRICT ATTORNEY
832 12TH STREET, SUITE 300
MODESTO CA 95354

SAN DIEGO CITY ATTORNEY'S OFFICE
CIVIC CENTER PLAZA
1200 THIRD AVE STE 1620
SAN DIEGO CA 92101

SAN JOSE CITY ATTORNEY'S OFFICE
200 E SANTA CLARA ST
SAN JOSE CA 95113

SAN FRANCISCO CITY ATTORNEY'S OFFICE
CITY HALL RM 234
SAN FRANCISCO, CA 94102

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