

ATWATER LAW LLP  
ATTORNEYS

NATHAN A. SAADAT  
nsaadat@atwaterllp.com

March 12, 2019

**VIA CERTIFIED MAIL**

Primal Grilling II Inc.  
c/o Catherine Sedita  
230 NE 9<sup>th</sup> Street  
Delray Beach, Florida 33444

Amazon.com, LLC  
410 Terry Avenue North  
Seattle, Washington 98109-5210  
Attn: Jeffrey P. Bezos, CEO/President

Amazon.com, LLC  
c/o Corporation Service Company  
2710 Gateway Oaks Drive, Suite 150N  
Sacramento, CA 95833

**VIA U.S. MAIL and EMAIL**

District Attorneys of all California Counties and  
Select City Attorneys  
(See Attached – Certificate of Service)

**VIA ELECTRONIC FILING**

State of California Department of Justice  
Office of the Attorney General  
Proposition 65 Enforcement Reporting  
Filing Link: [oag.ca.gov/prop65](http://oag.ca.gov/prop65)

Re: **NOTICE OF VIOLATIONS OF CALIFORNIA HEALTH &  
SAFETY CODE SECTION 25249.5 et seq.**

Dear Noticed Parties and Public Enforcement Agencies:

We represent Firouzeh Mashayekhi, who has identified violations (“Violations”) of California’s Safe Drinking Water and Toxic Enforcement Act of 1986, which is codified at California Health and Safety Code § 25249.5 *et seq.* (“Proposition 65”), by Primal Grilling II Inc., a Florida corporation, and Amazon.com, LLC, a Delaware limited liability company (collectively, the “Noticed Parties,” or each, individually, a “Noticed Party”) with respect to the product(s) set forth below (the “Products”). The Violations have occurred and/or continue to occur due to the Noticed Parties’ failure to provide clear and reasonable warnings with respect to the Products as strictly required by Proposition 65. A copy of the summary of Proposition 65, prepared by the Office of Environmental Health Hazard Assessment (“OEHHA”), is attached hereto (provided to the Noticed Parties only).

Pursuant to Section 25249.5(d) of Proposition 65, this Notice of Violations (this “Notice”) shall constitute written notice that the Noticed Parties have breached the warning requirements of

Proposition 65. Ms. Mashayekhi intends to file a private enforcement action in the public interest sixty (60) days after delivery of this Notice unless any public enforcement agency has commenced an action with respect to the Violations. The Products that are manufactured, marketed, distributed and/or sold by the Noticed Parties, as applicable, are as follows:

***1. Premium Cedar Planks For Grilling – Wood Dust and Carbon Monoxide***

The Products have exposed and continue to expose people within the State of California to wood dust and carbon monoxide. The Violations subject to this Notice result from the purchase, acquisition, and recommended use of the Products. The primary route of exposure is inhalation originating from burning the Products when it is used for its intended purpose of grilling.

On December 18<sup>th</sup>, 2009, wood dust was identified by the OEHHA as a toxic substance known to cause cancer. On July 1, 1989, carbon monoxide was identified by the OEHHA as a developmental toxin. As of the date of this Notice, any trace amount of wood dust or carbon monoxide identified within the Products or as a byproduct when using the product would require a consumer warning. Proposition 65 requires that a clear and reasonable warning be provided prior to exposing the people of California to wood dust and Carbon monoxide. The method of warning must be a warning that appears on each Product's label, packaging, and internet display page.

Violations have occurred daily since the Products were introduced to the California marketplace, and will continue daily until, (i) the Noticed Parties provide a clear and reasonable warning on each Product's packaging and each Product's internet display page pursuant to Proposition 65, or (ii) the Products are free from any toxic substances identified by OEHHA. Consistent with the public interest goals of Proposition 65 and a desire to resolve the Violations efficiently without costly litigation, Ms. Mashayekhi is interested in seeking a constructive resolution to this matter that includes an enforceable written agreement by the Noticed Parties to:

- 1. Recall any Products already sold and/or provide appropriate consumer warnings on each Product that may be sold within California; and**
- 2. Pay an appropriate civil penalty pursuant to Proposition 65.**

Such resolution would immediately prevent unwarned individuals from further exposure to toxic substances that can cause cancer and developmental toxicity, and avoid costly and protracted litigation. It should be noted that counsel cannot (i) finalize any settlement until after the 60-day notice period has expired, or (ii) undertake any action on behalf of the California Attorney General or any District or City Attorney who has received this Notice.


Please direct all communication regarding this Notice to our attention at the law office address and telephone number indicated on the letterhead. Thank you for your time and consideration with respect to this time-sensitive matter.

ATWATER LAW <sup>LLP</sup>  
ATTORNEYS

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Sincerely,

ATWATER LAW LLP



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Nathan A. Saadat, Esq.

Attachments:

1. Certificate of Merit;
2. Certificate of Service;
3. Report of Analysis (Attorney General only);
4. Proposition 65 Summary (the Noticed Parties only)

## CERTIFICATE OF MERIT

I, Nathan Saadat, Esq., hereby declare:

1. This Certificate of Merit (this "Certificate") accompanies the attached Notice of Violation dated March 12, 2019 (the "Notice") in which it is alleged that the parties identified in the Notice (the "Noticed Party") have violated California Health and Safety Code § 25249.6 by failing to provide clear and reasonable warnings.

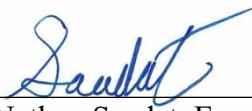
2. I am the attorney for Firouzeh Mashayekhi, who alleges that the Noticed Parties have exposed people in California to the listed chemicals that are the subject of this Certificate.

3. I have consulted with one or more persons with relevant and appropriate experience or expertise who have reviewed facts, studies, or other data regarding the alleged exposure to the listed chemicals that are the subject of this Certificate. I have reviewed the laboratory testing results and/or relevant studies for the chemicals subject to the Notice and relied on those results and/or factual data. The testing was conducted by a reputable testing laboratory. The facts, studies and other data derived through this investigation overwhelmingly demonstrate that the Noticed Parties expose individuals within California to the listed chemicals that are the subject of this Certificate.

4. Based on the information obtained through these consultants and on other information in my possession, I believe there is sufficient evidence that the listed product in the Notice exposes people to unlawful amounts of the specified chemicals. Furthermore, 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 that the information did not prove that the Noticed Parties will be able to establish any of the affirmative defenses set forth in the statute.

5. A copy of this Certificate served on the California Attorney General attaches to it factual information sufficient to establish the basis for this Certificate, including the information identified in Health & Safety Code § 25249.7 (h)(2), which provides (i) the identity of the persons consulted with and relied on by the undersigned, and (ii) the facts, studies or other data reviewed by those persons.

Dated: March 12, 2019

  
\_\_\_\_\_  
Nathan Saadat, Esq.

**CERTIFICATE OF SERVICE**

I am a citizen of the United States and a resident of the County of Los Angeles. I am over the age of eighteen years and not a party to the within entitled action or process. My business address is **10718 Missouri Avenue, Los Angeles, California 90025**

On March 12, 2019, I served the following documents:

- (i) Notice of Violations;**
- (ii) Certificate of Merit; and**
- (iii) “The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary”**

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

Jeffrey P. Bezos,  
CEO/President Amazon.com, LLC  
410 Terry Avenue North  
Seattle, Washington 98109-5210

Amazon.com, LLC  
c/o Corporation Service Company  
2710 Gateway Oaks Drive, Suite 150N  
Sacramento, California 95833

Primal Grilling II Inc.  
c/o Catherine Sedita  
230 NE 9<sup>th</sup> Street  
Delray Beach, Florida 33444

On March 12, 2019, I served the following documents:

- (i) Notice of Violations;**
- (ii) Certificate of Merit, and**
- (iii) Additional Information and Supporting Documentation Required by Title 11, C.C.R. § 3102**

on the following party by filing electronically a true and correct copy thereof as permitted through the website of the California Office of the Attorney General via the website address on the attached “Electronic Upload Service List”.

- State of California Department of Justice Office of the Attorney General

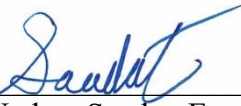
On March 12, 2019, I served the following documents:

- (i) Notice of Violations; and**
- (ii) Certificate of Merit**

by First Class Mail through the United States Postal Service by placing true and correct copies of the above documents in a sealed envelope, addressed to each entity on the attached “U.S. Mail Service List” and providing such envelope to a United States Postal Service Representative, postage prepaid, and by Electronic Mail by sending true and correct copies of the above documents to the electronic notification (Email) address(es) on the attached “Electronic Mail Service List”.

[Signature on next page]

I, Nathan Saadat, Esq., declare under penalty of perjury that the foregoing is true and correct.  
Executed on March 12, 2019, at Los Angeles, California.

  
\_\_\_\_\_  
Nathan Saadat, Esq.

## U.S. Mail Service List

Alpine County District Attorney P.O. Box 248 Markleeville, CA 96120	Los Angeles County District Attorney 211 West Temple Street, Suite 1200 Los Angeles, CA 90012	San Mateo County District Attorney 400 County Center Redwood City, CA 94063
Amador County District Attorney 708 Court Street Jackson, CA 95642	Madera County District Attorney 209 West Yosemite Avenue Madera, CA 93637	Shasta County District Attorney 1355 West Street Redding, CA 96001
Butte County District Attorney 25 County Center Drive, Suite 245 Oroville, CA 95965	Marin County District Attorney 3501 Civic Center Drive, Suite 145 San Rafael, CA 94903	Sierra County District Attorney P.O. Box 886 Downieville, CA 95936
Colusa County District Attorney 346 Fifth Street, Suite 101 Colusa, CA 95932	Mariposa County District Attorney P.O. Box 730 Mariposa, CA 95338	Siskiyou County District Attorney 311 4th Street Yreka, CA 96097
Del Norte County District Attorney 450 H Street, Room 171 Crescent City, CA 95531	Mendocino County District Attorney P.O. Box 1000 Ukiah, CA 95482	Solano County District Attorney 675 Texas Street, Suite 4500 Fairfield, CA 94533
El Dorado County District Attorney 778 Pacific St Placerville, CA 95667	Merced County District Attorney 550 W. Main Street Merced, CA 95340	Stanislaus County District Attorney 832 12th Street, Suite 300 Modesto, CA 95354
Fresno County District Attorney 2220 Tulare Street, Suite 1000 Fresno, CA 93721	Modoc County District Attorney 204 S. Court Street, Suite 202 Alturas, CA 96101	Sutter County District Attorney 463 Second Street, Suite 102 Yuba City, CA 95991
Glenn County District Attorney P.O. Box 430 Willows, CA 95988	Mono County District Attorney P.O. Box 617 Bridgeport, CA 93517	Tehama County District Attorney 444 Oak Street, Room L Red Bluff, CA 96080
Humboldt County District Attorney 825 5th Street, Fourth Floor Eureka, CA 95501	Nevada County District Attorney 201 Commercial Street Nevada City, CA 95959	Trinity County District Attorney P.O. Box 310 Weaverville, CA 96093
Imperial County District Attorney 940 West Main Street, Suite 102 El Centro, CA 92243	Orange County District Attorney 401 Civic Center Drive West Santa Ana, CA 92701	Tuolumne County District Attorney 423 North Washington Street Sonora, CA 95370
Kern County District Attorney 1215 Truxtun Avenue, 4th Floor Bakersfield, CA 93301	Placer County District Attorney 10810 Justice Center Drive, Suite 240 Roseville, CA 95678	Yuba County District Attorney 215 Fifth Street Marysville, CA 95901
Kings County District Attorney 1400 West Lacey Boulevard Hanford, CA 93230	Plumas County District Attorney 520 Main Street, Room 404 Quincy, CA 95971	Office of the City Attorney, Los Angeles James K. Hahn City Hall East 200 North Main Street, 8th Floor Los Angeles, CA 90012
Lake County District Attorney 255 North Forbes Street Lakeport, CA 95453	San Benito County District Attorney 419 4th Street Hollister, CA 95023	San Bernardino County District Attorney 303 West 3rd Street, 6th Floor San Bernardino, CA 92415-0502
San Diego County District Attorney 330 W. Broadway Street San Diego, CA 92101		Office of the City Attorney, San Jose 200 East Santa Clara Street, 16th Floor San Jose, CA 95113

## Electronic Mail Service List

Nancy O'Malley, District Attorney Alameda County District Attorney 7776 Oakport Street, Suite 650 Oakland, CA 94621 CEPDProp65@acgov.org	Paul E. Zellerbach, District Attorney Riverside County 3072 Orange Street Riverside, CA 92501 Prop65@rivcoda.org	Eric J. Dobroth, Deputy District Attorney San Luis Obispo County County Govt Center Annex, 4th Floor San Luis Obispo, CA 93408 edobroth@co.slo.ca.us
Allison Haley, District Attorney Napa County 1127 First Street, Ste C Napa, CA 94559 CEPD@countyofnapa.org	Tori Verber Salazar, District Attorney San Joaquin County 222 E. Weber Avenue, Room 202 Stockton, CA 95202 DAConsumer.Environmental@sjcda.org	Stephan R. Passalacqua, District Attorney Sonoma County 600 Administration Dr Sonoma, CA 95403 jbarnes@sonoma-county.org
Gregory Alker, Assistant District Attorney San Francisco County 732 Brannan Street San Francisco, CA 94103 gregory.alker@sfgov.org	Jeffrey S. Rosell, District Attorney Santa Cruz County 701 Ocean Street Santa Cruz, CA 95060 Prop65DA@santacruzcounty.us	Dije Ndreu, Deputy District Attorney Monterey County 1200 Aguajito Road Monterey, CA 93940 Prop65DA@co.monterey.ca.us
Yen Dang Supervising Deputy District Attorney Santa Clara County 70 W Hedding St San Jose, CA 95110 EPU@da.sccgov.org	Jeff W. Reisig, District Attorney Yolo County 301 Second Street Woodland, CA 95695 cfepd@yolocounty.org	Mark Ankcorn, Deputy City Attorney City of San Diego 1200 Third Avenue San Diego, CA 92101 CityAttyProp65@sandiego.gov
Gregory D. Totten, District Attorney Ventura County 800 S Victoria Ave Ventura, CA 93009 daspecialops@ventura.org	Michelle Latimer, Program Coordinator Lassen County 220 S. Lassen Street Susanville, CA 96130 mlatimer@co.lassen.ca.us	Christopher Dalbey, Deputy District Attorney Santa Barbara County 1112 Santa Barbara St. Santa Barbara, CA 93101 DAProp65@co.santa-barbara.ca.us
Stacey Grassini, Deputy District Attorney Contra Costa County 900 Ward Street Martinez, CA 94553 sgrassini@contracostada.org	Anne Marie Schubert, District Attorney Sacramento County 901 G Street Sacramento, CA 95814 Prop65@sacda.org	Phillip J. Cline, District Attorney Tulare County 221 S Mooney Blvd Visalia, CA 95370 Prop65@co.tulare.ca.us
Barbara Yook, District Attorney Calaveras County 891 Mountain Ranch Road. San Andreas, CA 95249 Prop65Env@co.calaveras.ca.us	Thomas L. Hardy, District Attorney Inyo County 168 North Edwards Street Independence, CA 93526 inyoda@inyocounty.us	Valerie Lopez, Deputy City Attorney City of San Francisco 1390 Market Street, 7th Floor San Francisco, CA 94102 Valerie.Lopez@sfcityatty.org

## Electronic Upload Service List

Office of the California Attorney General Proposition 65 Enforcement Reporting ATTN: Prop 65 Coordinator P.O. Box 70550 Oakland, CA 94612-0550 <a href="https://oag.ca.gov/prop65/add-60-day-notice">https://oag.ca.gov/prop65/add-60-day-notice</a>
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## 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 California Office of Environmental Health Hazard Assessment (OEHHA), 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 OEHHA implementing regulations (see citations below) for further information.

FOR INFORMATION CONCERNING THE BASIS FOR THE ALLEGATIONS IN THE NOTICE RELATED TO YOUR BUSINESS, CONTACT THE PERSON IDENTIFIED ON THE NOTICE.

The text of Proposition 65 (Health and Safety Code Sections 25249.5 through 25249.13) is available online at: <http://oehha.ca.gov/prop65/law/P65law72003.html>. 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 27 of the California Code of Regulations, sections 25102 through 27001.<sup>1</sup> These implementing regulations are available online at: <http://oehha.ca.gov/prop65/law/P65Regs.html>.

#### *WHAT DOES PROPOSITION 65 REQUIRE?*

***The “Proposition 65 List.”*** Under Proposition 65, the lead agency (OEHHA) publishes a list of chemicals that are known to the State of California to cause cancer and/or reproductive toxicity. Chemicals are placed on the Proposition 65 list if they are known to cause cancer and/or birth defects or other reproductive harm, such as damage to

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<sup>1</sup> All further regulatory references are to sections of Title 27 of the California Code of Regulations unless otherwise indicated. The statute, regulations and relevant case law are available on the OEHHA website at: <http://www.oehha.ca.gov/prop65/law/index.html>.

female or male reproductive systems or to the developing fetus. This list must be updated at least once a year. The current Proposition 65 list of chemicals is available on the OEHHA website at: [http://www.oehha.ca.gov/prop65/prop65\\_list/Newlist.html](http://www.oehha.ca.gov/prop65/prop65_list/Newlist.html).

Only those chemicals that are on the list are regulated under Proposition 65. Businesses that produce, use, release or otherwise engage in activities involving listed 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 unless an exemption applies. 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 to that chemical. Some exposures are exempt from the warning requirement under certain circumstances discussed below.

***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. Some discharges are exempt from this requirement under certain circumstances discussed below.

#### *DOES PROPOSITION 65 PROVIDE ANY EXEMPTIONS?*

Yes. You should consult the current version of the statute and regulations (<http://www.oehha.ca.gov/prop65/law/index.html>) to determine all applicable exemptions, the most common of which are the following:

***Grace Period.*** Proposition 65 warning requirements do not apply until 12 months after the chemical has been listed. The Proposition 65 discharge prohibition does not apply to a discharge or release of a chemical that takes place less than 20 months after the listing of the chemical.

***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. This includes all employees, not just those present in California.

**Exposures that pose no significant risk of cancer.** For chemicals that are listed under Proposition 65 as known to the State to cause cancer, a warning is not required if the business causing the exposure 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” (NSRLs) for many listed carcinogens. Exposures below these levels are exempt from the warning requirement. See OEHHA's website at: <http://www.oehha.ca.gov/prop65/getNSRLs.html> for a list of NSRLs, and Section 25701 *et seq.* of the regulations for information concerning how these levels are calculated.

**Exposures that will produce no observable reproductive effect at 1,000 times the level in question.** For chemicals known to the State to cause reproductive toxicity, a warning is not required if the business causing the exposure 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” divided by 1,000. This number is known as the Maximum Allowable Dose Level (MADL). See OEHHA's website at: <http://www.oehha.ca.gov/prop65/getNSRLs.html> for a list of MADLs, and Section 25801 *et seq.* of the regulations for information concerning how these levels are calculated.

**Exposures to Naturally Occurring Chemicals in Food.** Certain exposures to chemicals that naturally occur in foods (i.e., that do not result from any known human activity, including activity by someone other than the person causing the exposure) are exempt from the warning requirements of the law. If the chemical is a contaminant<sup>2</sup> it must be reduced to the lowest level feasible. Regulations explaining this exemption can be found in Section 25501.

**Discharges that do not result in a “significant amount” of the listed chemical entering 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 pass into or probably pass into a source of drinking water, 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” level for chemicals that cause cancer or that is 1,000 times below the “no observable effect” level for chemicals that cause reproductive toxicity, if an individual were exposed to that amount in drinking water.

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<sup>2</sup> See Section 25501(a)(4).

## *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. 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. The notice must comply with the information and procedural requirements specified in Section 25903 of Title 27 and sections 3100-3103 of Title 11. A private party may not pursue an independent enforcement action under Proposition 65 if one of the governmental officials noted above initiates an enforcement 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 to stop committing the violation.

A private party may not file an enforcement action based on certain exposures if the alleged violator meets specific conditions. For the following types of exposures, the Act provides an opportunity for the business to correct the alleged violation:

- An exposure to alcoholic beverages that are consumed on the alleged violator's premises to the extent onsite consumption is permitted by law;
- An exposure to a Proposition 65 listed chemical in a food or beverage prepared and sold on the alleged violator's premises that is primarily intended for immediate consumption on- or off-premises. This only applies if the chemical was not intentionally added to the food, and was formed by cooking or similar preparation of food or beverage components necessary to render the food or beverage palatable or to avoid microbiological contamination;
- An exposure to environmental tobacco smoke caused by entry of persons (other than employees) on premises owned or operated by the alleged violator where smoking is permitted at any location on the premises;
- An exposure to listed chemicals in engine exhaust, to the extent the exposure occurs inside a facility owned or operated by the alleged violator and primarily intended for parking non-commercial vehicles.

If a private party alleges that a violation occurred based on one of the exposures described above, the private party must first provide the alleged violator a notice of special compliance procedure and proof of compliance form.

A copy of the notice of special compliance procedure and proof of compliance form is included in Appendix B and can be downloaded from OEHHA's website at: <http://oehha.ca.gov/prop65/law/p65law72003.html>.

*FOR FURTHER INFORMATION ABOUT THE LAW OR REGULATIONS...*

Contact the Office of Environmental Health Hazard Assessment's Proposition 65 Implementation Office at (916) 445-6900 or via e-mail at [P65Public.Comments@oehha.ca.gov](mailto:P65Public.Comments@oehha.ca.gov).

Revised: May 2017

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Sections 25249.5, 25249.6, 25249.7, 25249.9, 25249.10 and 25249.11, Health and Safety Code.