



# ENVIRONMENTAL LAW FOUNDATION

1222 Preservation Park Way, Suite 200, Oakland, California 94612 • (510) 208-4555 • [www.envirolaw.org](http://www.envirolaw.org)  
Nathaniel Kane, Attorney • [nkane@envirolaw.org](mailto:nkane@envirolaw.org)

May 30, 2019

**Via First-Class Mail**

Protein Supplements LLC  
2010 Crow Canyon Place, Suite 100  
San Ramon, CA 94583  
(925) 359-3275

**Re: 60-Day Notice of Violation of California Health and Safety Code Section 25249.5, et seq. (Proposition 65)**

Dear Protein Supplements, LLC and Appropriate Public Enforcement Agencies:

Environmental Law Foundation (“ELF”) has identified violations of California’s Safe Drinking Water and Toxic Enforcement Act of 1986 (“Proposition 65”), which is codified at Health and Safety Code section 25249.5, *et seq.*, with respect to the products identified below. These violations have occurred and continue to occur because the alleged Violator identified below failed to provide the required clear and reasonable warnings with the identified products. This letter serves as a notice of these violations to the alleged Violator and the appropriate public enforcement agencies. Pursuant to section 25249.7, subdivision (d), ELF intends to file a private enforcement action in the public interest 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.

**General Information about Proposition 65:** A copy of a summary of Proposition 65, prepared by the Office of Environmental Health Hazard Assessment, is an attachment with the copy of this letter served to the alleged Violator identified below.

**Alleged Violator:** The name of the company covered by this notice that violated Proposition 65 (hereinafter “the Violator”) is:

**Protein Supplements, LLC**

**Consumer Products and Listed Chemical:** The products that are the subject of this notice are **Protein Supplement Products** and the chemical in such products identified as exceeding allowable levels is **lead**. A non-exclusive product exemplar is the following:

**Protein Supplements LLC, Gold 50 Shake – Lead**

On February 27, 1987, the State of California officially listed lead as a chemical known to the state to cause developmental toxicity and male and female reproductive toxicity. On October 1, 1992, the State of California officially listed lead and lead compounds as chemicals known to cause cancer.

ELF may continue to investigate other products that may reveal further violations and result in subsequent notices of violations.

**Route of Exposure:** The consumer exposures that are the subject of this notice result from the purchase, acquisition, and recommended use of the products. Consequently, the primary route of ingestion to these chemicals has been and continues to be through ingestion.

**Approximate Time Period of Violations:** Ongoing violations have occurred every day since at least March 12, 2019 as well as every day since the products were introduced into the California market and will continue every day until clear and reasonable warnings are provided to product purchases and users or until these known toxic chemicals are either removed from or reduced to allowable levels in these products. Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to the identified chemicals. The method of warning should be a warning that appears on the product label. The Violator violated Proposition 65 because it failed to provide persons using these products with appropriate warnings that they are being exposed to these chemicals.

Consistent with the public interest goals of Proposition 65 and a desire to have these ongoing violations of California law quickly rectified, ELF is interested in seeking constructive resolution of this matter that includes an enforceable written agreement by the Violator to (1) recall any products already sold, or undertake best efforts to ensure that the requisite clear and reasonable warnings are provided to those who have received such products; (2) reformulate the identified products so as to eliminate further exposures to the identified products or provide appropriate warnings on the labels of those products; and (3) pay an appropriate civil penalty. Such a resolution will prevent further unwarned consumer exposures to the identified chemicals, as well as expensive and time-consuming litigation. It should be noted that counsel cannot (1) finalize any settlement until after the 60-notice period expires; or (2) speak for the California Attorney General or any other public enforcement agency who has received this notice. Therefore, while reaching an agreement may satisfy the claims alleged in this letter, such agreement may not be satisfactory to public enforcement agencies.

Please direct all communication regarding this Notice of Violation to Environmental Law Foundation, 1222 Preservation Park Way, Suite 200, Oakland, CA 94612, (510) 208-4555.

Sincerely,

A handwritten signature in black ink, appearing to read "Nathaniel H. Kane". The signature is fluid and cursive, with a long horizontal stroke at the end.

Nathaniel Kane  
Attorney  
Environmental Law Foundation

Attachments:

Certificate of Merit

Certificate of Service

OEHHA Summary (to Violator only)

Additional Supporting Information for Certificate of Merit (to AG only)

**CERTIFICATE OF MERIT - Health and Safety Code § 25249.7(d)**

**RE: Notice of Proposition 65 Violations**

I, Nathaniel H. Kane, hereby declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged that the party identified in the notice violated California Health and Safety Code section 25249.6 by exposing consumers to chemicals known to the state to cause cancer and reproductive toxicity without providing 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 have reviewed facts, studies, or other data regarding the exposures to the listed chemicals that are the subject of the Notice.

4. Based on the information obtained through those consultants, and on 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 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. Along with the copy of this Certificate of Merit served on the Attorney General is attached additional factual information sufficient to establish the basis for this certificate, including the information identified in Health and Safety Code section 25249.7, subdivision (h)(2), i.e., (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies, and other data reviewed by those persons.

Executed: May 30, 2019



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Nathaniel H. Kane

### 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 of age, and am not a party to the within action.

On May 30, 2019, I served the following documents: NOTICE OF VIOLATION OF CALIFORNIA HEALTH & SAFETY CODE § 25249.5 *ET SEQ.*; CERTIFICATE OF MERIT; "THE SAFE 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 listed below and depositing it in a US Postal Service Office with the postage fully prepaid:

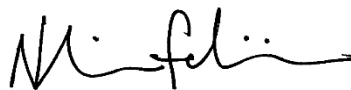
Protein Supplements, LLC  
2010 Crow Canyon Place, Suite 100  
San Ramon, CA 94583

On May 30, 2019, I served the following documents: NOTICE OF VIOLATION OF CALIFORNIA HEALTH & SAFETY CODE § 25249.5 *ET SEQ.*; CERTIFICATE OF MERIT; ADDITIONAL SUPPORTING INFORMATION FOR CERTIFICATE OF MERIT AS REQUIRED BY CALIFORNIA HEALTH & SAFETY CODE § 25249.7(D)(1) on the following parties by uploading the foregoing documents at the webpage listed below:

Office of the California Attorney General  
Prop 65 Enforcement Reporting  
1515 Clay Street, Ste. 2000  
P.O. Box 70550  
Oakland, CA 94612-0550  
<https://oag.ca.gov/prop65/add-60-day-notice>

On May 30, 2019, I served the following Documents: NOTICE OF VIOLATION CALIFORNIA HEALTH & SAFETY CODE § 25249.5 *ET SEQ.*; CERTIFICATE OF MERIT on each of the parties on the Service List attached hereto. As to those parties listed by mailing address only, I effected service by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties on the Service list attached hereto, and depositing it with the U.S. Postal Service with postage fully prepaid for delivery by Priority Mail. As to those listed on the Attorney General's website (<https://oag.ca.gov/prop65/electronic-service>) as having authorized service by email, I effected service by transmitting the document via electronic transmission to the email address listed.

Executed under penalty of perjury pursuant to the laws of the State of California on May 30, 2019.



Nicole Feliciano

SERVICE LIST

**VIA USPS**

District Attorney of Alpine County  
P.O. Box 248  
Markleeville, CA 96120

District Attorney of Amador County  
708 Court Street, #202  
Jackson, CA 95642

District Attorney of Butte County  
25 County Center Drive  
Oroville, CA 95965

District Attorney of Colusa County  
547 Market Street  
Colusa, CA 95932

District Attorney of Del Norte County  
450 H Street, Ste 171  
Crescent City, CA 95531

District Attorney of El Dorado County  
515 Main Street  
Placerville, CA 95667

District Attorney of Fresno County  
2220 Tulare Street, #1000  
Fresno, CA 93721

District Attorney of Placer County  
10810 Justice Center Dr #240,  
Roseville, CA 95678

District Attorney of Plumas County  
520 Main Street, Room 404  
Quincy, CA 95971

District Attorney of San Benito County  
419 Fourth Street, 2nd Floor  
Hollister, CA 95023

District Attorney of San Bernardino County  
316 N. Mountain View Avenue  
San Bernardino, CA 92415-0004

District Attorney of Siskiyou County  
P.O. Box 986  
Yreka, CA 96097

District Attorney of Solano County  
675 Texas Street, Suite 6600  
Fairfield, CA 94533

District Attorney of Stanislaus County  
832 12th St #300  
Modesto, CA 95354

San Jose City Attorney's Office  
200 E. Santa Clara St., 16th Floor  
San Jose, CA 95113

District Attorney of Marin County  
3501 Civic Center Dr., Room 183  
San Rafael, CA 94903

District Attorney of Mariposa County  
P.O. Box 730  
Mariposa, CA 95338

District Attorney of Mendocino County  
P.O. Box 1000  
Ukiah, CA 95482

District Attorney of Merced County  
2222 "M" Street  
Merced, CA 95340

District Attorney of Modoc County  
204 S Court Street  
Alturas, CA 96101-4020

District Attorney of Mono County  
P.O. Box 617  
Bridgeport, CA 93517

District Attorney of Nevada County  
201 Commercial Street  
Nevada City, CA 95959

Notice of Violations of California Health & Safety Code § 25249.5, *et seq.*

May 30, 2019

District Attorney of San Diego County  
330 West Broadway, Suite 1300  
San Diego, CA 92112

District Attorney of Orange County  
401 Civic Ctr Drive West  
Santa Ana, CA 92701

District Attorney of Glenn County  
P.O. Box 430  
Willows, CA 95988

District Attorney of Sutter County  
446 Second Street  
Yuba City, CA 95991

District Attorney of Humboldt County  
825 5th Street  
Eureka, CA 95501

District Attorney of Tehama County  
P.O. Box 519  
Red Bluff, CA 96080

District Attorney of Imperial County  
940 Main St #102,  
El Centro, CA 92243

District Attorney of Trinity County  
P.O. Box 310  
11 Court Street  
Weaverville, CA 96093

District Attorney of Kern County  
1215 Truxtun Avenue  
Bakersfield, CA 93301

District Attorney of Tuolumne County  
423 N. Washington St.  
Sonora, CA 95370

District Attorney of Kings County  
1400 West Lacey  
Hanford, CA 93230

District Attorney of Yuba County  
215 Fifth Street  
Marysville, CA 95901

District Attorney of Lake County  
255 N. Forbes Street  
Lakeport, CA 95453

Los Angeles City Attorney's Office  
200 N. Main Street, Room 800  
Los Angeles, CA 90012

District Attorney of Los Angeles County  
210 W. Temple Street, Room 1800  
Los Angeles, CA 90012

Office of the City Attorney, City of Sacramento  
915 I Street, 4th Floor  
Sacramento, CA 95814-2608

District Attorney of Madera County  
209 West Yosemite Avenue  
Madera, CA 93637

District Attorney of San Mateo County  
400 County Ctr, 3rd Fl  
Redwood City, CA 94063

District Attorney of Shasta County  
1355 West St.  
Redding, CA 96001

Notice of Violations of California Health & Safety Code § 25249.5, *et seq.*  
May 30, 2019

**VIA EMAIL**

Nancy O'Malley , District Attorney  
Alameda County  
7776 Oakport Street, Suite 650  
Oakland, CA 94621  
CEPDProp65@acgov.org

Barbara Yook , District Attorney  
Calaveras County  
891 Mountain Ranch Rd.  
San Andreas, CA 95249  
Prop65Env@co.calaveras.ca.us

Stacey Grassini, Deputy District Attorney  
Contra Costa County  
900 Ward Street  
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3072 Orange Street  
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Gregory Alker, Assistant District Attorney  
San Francisco County  
732 Brannan Street  
San Francisco, CA 94103  
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Valerie Lopez , San Francisco Deputy City Attorney  
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Bud Porter, Supervising Deputy District Attorney  
Santa Clara County  
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Jeffrey S. Rosell , District Attorney  
Santa Cruz County  
701 Ocean Street  
Santa Cruz , CA 95060  
Prop65DA@santacruzcounty.us

Stephan R. Passalacqua, District Attorney  
Sonoma County  
600 Administration Dr  
Sonoma, CA 95403  
jbarnes@sonoma-county.org

Dije Ndreu, Deputy District Attorney  
Monterey County  
1200 Aguajito Road  
Monterey , CA 93940  
Prop65DA@co.monterey.ca.us

Gary Lieberstein, District Attorney  
Napa County  
931 Parkway Mall  
Napa, CA 94559  
CEPD@countyofnapa.org

Phillip J. Cline, District Attorney  
Tulare County  
221 S Mooney Blvd  
Visalia, CA 95370  
Prop65@co.tulare.ca.us

Jeff W. Reisig, District Attorney  
Yolo County  
301 Second Street  
Woodland, CA 95695  
cfepd@yolocounty.org

Notice of Violations of California Health & Safety Code § 25249.5, *et seq.*

May 30, 2019

Tori Verber Salazar, District Attorney  
San Joaquin County  
222 E. Weber Avenue, Room 202  
Stockton, CA 95202  
DAConsumer.Environmental@sjcda.org

Eric J. Dobroth, Deputy District Attorney  
San Luis Obispo County  
County Government Center Annex, 4th Floor  
San Luis Obispo, CA 93408  
edobroth@co.slo.ca.us

Michelle Latimer, Program Coordinator  
Lassen County  
220 S. Lassen Street  
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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

Gregory D. Totten, District Attorney  
Ventura County  
800 S Victoria Ave  
Ventura, CA 93009  
daspecialops@ventura.org

Mark Ankorn, Deputy City Attorney, San Diego  
1200 Third Avenue  
San Diego, CA 92101  
CityAttyProp65@sandiego.gov