



SIXTY-DAY NOTICE OF VIOLATION OF THE SAFE DRINKING WATER & TOXIC ENFORCEMENT ACT OF 1986 (“PROPOSITION 65”)
(Cal. Health & Safety Code § 25249.5, et seq.)

Via Certified Mail

iHerb, LLC c/o Paracorp Incorporated 2804 Gateway Oaks Dr. Sacramento, CA 95833	CEO Emun Zabihi or Current CEO, President, or General Counsel iHerb, LLC 17400 Laguna Canyon Rd. 400 Irvine, CA 92618
Sunwarrior Ventures, LLC c/o Corporate Creations Network Inc. 169 W 2710 S Circle Ste 202-A Saint George, UT, 84790	CEO Emerson Carnavale or Current CEO, President, or General Counsel Sunwarrior Ventures, LLC dba Sunwarrior 239 2nd Avenue S Suite 200 St Petersburg, FL, 33701

Dear Alleged Violators and Appropriate Enforcement Agencies:

I. INTRODUCTION

Dhara Law represents Oswaldo Castanon, a citizen of the State of California acting in the interest of the general public to promote awareness of exposures to toxic chemicals in products sold in California and encourage corporate responsibility.

This Sixty-Day Notice of Violation of the Safe Drinking Water & Toxic Enforcement Act of 1986 (hereafter, the “Notice”) serves to inform you that iHerb, LLC (“iHerb”) and Sunwarrior Ventures, LLC dba Sunwarrior (“Sunwarrior”) (collectively, the “Alleged Violators”) are in violation of California’s Safe Drinking Water and Toxic Enforcement Act of 1986 (“Proposition 65”), codified at California Health & Safety Code § 25249.5, *et seq.*

II. GENERAL INFORMATION ABOUT PROPOSITION 65

A summary of Proposition 65 and its implementing regulations, prepared by the Office of Environmental Health Hazard Assessment (“OEHHA”), the agency which administers the Proposition 65 program, is enclosed as “Appendix A” and has been served on the Alleged Violators. For more information pertaining the provisions of Proposition 65, please contact OEHHA’s Proposition 65 Help Desk at (916) 445-6900.

III. DESCRIPTION OF THE VIOLATION

A. Alleged Violators: iHerb, LLC; Sunwarrior Ventures, LLC dba Sunwarrior

B. Product: The type of product that is causing exposures in violation of Proposition 65 is powdered dietary supplements (“Products”), including but not limited to the Exemplar Product¹ listed below.

Exemplar Product	Listed Chemical	Alleged Violator(s)
Sunwarrior Harvest Organic Psyllium Husk Powder UPC: 810100922559	Lead	iHerb, LLC; Sunwarrior Ventures, LLC dba Sunwarrior

C. Listed Chemical: The listed chemical at issue in this Notice is lead. Lead was listed by the State of California as a reproductive toxicant on February 27, 1987. Lead was listed by the State of California as a carcinogen on October 1, 1992.

D. Time Period of Exposure: Violations have been occurring since at least March 4, 2026 and are ever continuing thereafter.

E. Route of Exposure: The primary route of exposure to the Listed Chemical is ingestion.

IV. PRESERVATION OF RELEVANT EVIDENCE

This Notice also serves as a demand that the Alleged Violators preserve and maintain all relevant evidence, including all electronic documents and data, relating to the violation(s) described herein. Such relevant evidence includes, but is not limited to, all documents relating to lead released from or during the storage, shipment, and use of the Products; communications with any person relating to actual or potential exposures to lead from the use of the Products; representative exemplar of each unit of any of the brands listed above since three years prior to the date of this Notice; the content of internet displays for the Products causing the violation; and all communications regarding the alleged violations.

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¹ The Exemplar Product is identified for the benefit of the Alleged Violator(s) to assist in their investigation into the alleged violation that is the subject of this Notice. The *specific* identified Exemplar Product is not intended to be an exhaustive list of all such products potentially in violation of Proposition 65.

V. DEMAND FOR INFORMATION

Pursuant to California Code of Regulations Title 27, Article 6, Section 25600.2(g), we respectfully request that you provide Mr. Castanon (through his counsel) with the names and contact information for any and every manufacturer, producer, packager, importer, supplier, and/or distributor of each of the Products, including the Exemplar Product. Please provide this information within one week of receipt of this Notice.

VI. RESOLUTION OF THE CLAIMS

Please be advised that Mr. Castanon intends to bring a citizen enforcement action based on the allegations set forth in this Notice, unless the Alleged Violators agree to remedy the violations described herein. Consistent with the public interest goals of Proposition 65, Mr. Castanon remains open and willing to discussing the possibility of resolving these grievances short of formal litigation.

Mr. Castanon [4813 Forecast Way, Stockton, CA 95206; (Tel): 409 420-1156] has retained Dhara Law as legal counsel in connection with this Notice. **Please direct all communications regarding this Notice to my attention at Dhara Law, 10080 N. Wolfe Road, Suite SW3-200, Cupertino, CA 95014. I can be reached by telephone at (408) 471-8729, or via e-mail at tara@dhara.com.**

Sincerely,



Tara Natarajan, Esq.
Attorney for Oswaldo Castanon

Attachments:

1. Certificate of Merit;
2. Certificate of Service;
3. OEHHHA Proposition 65: A Summary ("Appendix A") (*to Alleged Violators only*);
4. Confidential Factual Information Supporting Certificate of Merit (*to AG only*);
5. E-mail Service List; and
6. Mail Service List.

CERTIFICATE OF MERIT

I, Tara Natarajan, hereby declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged the parties identified in the notice have violated Health & Safety Code Section 25249.6 by failing to provide clear and reasonable warnings.

2. I am the 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 the alleged exposure to the listed chemical that is 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 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.

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 Health and Safety Code section 25249.7(h)(2), 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: April 30, 2026

Tara Natarajan

Tara Natarajan, Esq.

CERTIFICATE OF SERVICE PURSUANT TO 27 CCR § 25903

I, the undersigned, declare that I am over the age of 18 and not a party to this case. I am a resident of or employed in the county where mailing occurred. My business address is 10080 N. Wolfe Road, Suite SW3-200, Cupertino, CA 95014.

On April 30, 2026, between 8:00 a.m. and 5:00 p.m. Pacific Standard Time, I served the following documents: **(1) Sixty-Day Notice of Intent to Sue for Violation of the Safe Drinking Water and Toxic Enforcement Act of 1986; (2) Certificate of Merit; and (3) The Safe Drinking Water and Toxic Enforcement Act of 1986: A Summary (“Appendix A”)** on the parties listed below by placing a true and correct copy thereof in a sealed envelope, addressed to each party and depositing such envelope at a U.S. Postal Service Office with the postage fully prepaid for delivery by Certified Mail:

iHerb, LLC c/o Paracorp Incorporated 2804 Gateway Oaks Dr. Sacramento, CA 95833	CEO Emun Zabihi or Current CEO, President, or General Counsel iHerb, LLC 17400 Laguna Canyon Rd. 400 Irvine, CA 92618
Sunwarrior Ventures, LLC c/o Corporate Creations Network Inc. 169 W 2710 S Circle Ste 202-A Saint George, UT, 84790	CEO Emerson Carnavale or Current CEO, President, or General Counsel Sunwarrior Ventures, LLC dba Sunwarrior 239 2nd Avenue S Suite 200 St Petersburg, FL, 33701

On April 30, 2026, between 8:00 a.m. and 5:00 p.m. Pacific Standard Time, I verified the following documents: **(1) Sixty-Day Notice of Intent to Sue for Violation of the Safe Drinking Water and Toxic Enforcement Act of 1986; (2) Certificate of Merit; and (3) Factual Information in Support of Certificate of Merit (served only on the Attorney General)** were served on the following party by uploading a true and correct copy thereof as a PDF file to the California Attorney General’s website, which can be accessed at: <https://oag.ca.gov/prop65/add-60-day-notice>:

Office of the California Attorney General
Prop 65 Enforcement Reporting
1515 Clay Street, Suite 2000
Oakland, CA 94612-0550

On April 30, 2026, between 8:00 a.m. and 5:00 p.m. Pacific Standard Time, I verified the following documents: **(1) Sixty-Day Notice of Intent to Sue for Violation of the Safe Drinking Water and Toxic Enforcement Act of 1986 and (2) Certificate of Merit** were served via electronic mail on each party on the attached E-mail Service List.

On April 30, 2026, between 8:00 a.m. and 5:00 p.m. Pacific Standard Time, I served the following documents: **(1) Sixty-Day Notice of Intent to Sue for Violation of the Safe Drinking Water and Toxic Enforcement Act of 1986** and **(2) Certificate of Merit** on each party on the attached Mail Service List by placing a true and correct copy thereof in a sealed envelope, addressed to each party and depositing such envelope at a U.S. Postal Service Office with the postage fully prepaid for delivery by First Class Mail.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on April 30, 2026 in Cupertino, California.

Tara Natarajan

Tara Natarajan, Esq.

E-Mail Service List

<p>The Honorable Lisa A. Smittcamp, Fresno County, District Attorney 2100 Tulare Street Fresno, CA 93721 Phone: (559) 600-3141 consumerprotection@fresnocountyca.gov</p>	<p>The Honorable Barbara Yook Calaveras County, District Attorney 891 Mountain Ranch Rd. San Andreas, CA 95249 Phone: 209-754-6330 Prop65Env@co.calaveras.ca.us</p>	<p>The Honorable Stacey Grassini Contra Costa County, Deputy District Attorney 900 Ward Street Martinez, CA 94553 sgrassini@contracostada.org</p>	<p>The Honorable James Clinchard El Dorado County, Assistant District Attorney 778 Pacific Street Placerville, CA 95667 EDCDAPROP65@edcda.us</p>
<p>The Honorable Pamela Price Alameda County, District Attorney 7677 Oakport Street, Suite 650 Oakland, CA 94621 CEPDProp65@acgov.org</p>	<p>The Honorable Lori Frugoli Marin County, District Attorney 3501 Civic Center Drive, Room 145 San Rafael, CA 94903 consumer@marincounty.gov</p>	<p>The Honorable Allison Haley Napa County, District Attorney 1127 First Street, Suite C Napa, CA 94559 CEPD@countyofnapa.org</p>	<p>The Honorable Clifford H. Newell Nevada County, District Attorney 201 Commercial Street Nevada City, CA 95959 DA.Prop65@co.nevada.ca.us</p>
<p>The Honorable Thomas L. Hardy Inyo County, District Attorney 168 North Edwards Street Independence, CA 93526 Phone: 760.878.0282 inyoda@inyocounty.us</p>	<p>The Honorable Michelle Latimer Lassen County, Program Coordinator 220 S. Lassen Street Susanville, CA 96130 Phone: 530-251-8284 mlatimer@co.lassen.ca.us</p>	<p>The Honorable Walter W. Wall, Mariposa County, District Attorney P.O. Box 730 Mariposa, CA 95338 Phone: (209) 966-3626 mcda@mariposacounty.org</p>	<p>The Honorable Kimberly Lewis, Merced County, District Attorney 550 West Main Street Merced, CA 95340 Phone: (209) 385-7381 Prop65@countyofmerced.com</p>
<p>The Honorable Eric J. Dobroth San Luis Obispo County, Deputy District Attorney County Government Center Annex, 4th Fl San Luis Obispo, CA 93408 Phone: 805-781-5800 edobroth@co.slo.ca.us</p>	<p>The Honorable Morgan Briggs Gire Placer County, District Attorney 10810 Justice Center Drive Roseville, CA 95678 Phone: 916-543-8000 prop65@placer.ca.gov</p>	<p>The Honorable David Hollister Plumas County, District Attorney 520 Main St. Quincy, CA 95971 Phone: (530) 283-6303 davidhollister@countyofplumas.com</p>	<p>The Honorable Christopher Dalbey Santa Barbara County, Deputy District Attorney 1112 Santa Barbara St. Santa Barbara, CA 93101 Phone: 805-568-2300 DAProp65@co.santa-barbara.ca.us</p>
<p>The Honorable Paul E. Zellerbach Riverside County, District Attorney 3072 Orange Street Riverside, CA 92501 Prop65@rivcoda.org</p>	<p>The Honorable Anne Marie Schubert Sacramento County, District Attorney 901 G Street Sacramento, CA 95814 Prop65@sacda.org</p>	<p>The Honorable Summer Stephan San Diego County, District Attorney 330 West Broadway San Diego, CA 92101 SanDiegoDAProp65@sdcda.org</p>	<p>The Honorable Alexander Grayner San Francisco County, Asst. District Attorney 350 Rhode Island Street San Francisco, CA 94103 alexandra.grayner@sfgov.org</p>
<p>The Honorable Tori Verber Salazar San Joaquin County, District Attorney 222 E. Weber Avenue, Room 202 Stockton, CA 95202 DAConsumer.Environmental@sjcda.org</p>	<p>The Honorable Jeannine M. Pacioni, Monterey County, District Attorney 1200 Aguajito Road Monterey, CA 93940 Prop65DA@co.monterey.ca.us</p>	<p>The Honorable Bud Porter Santa Clara County, Supervising Deputy District Attorney 70 W Hedding St San Jose, CA 95110 EPU@da.sccgov.org</p>	<p>The Honorable Jeffrey S. Rosell Santa Cruz County, District Attorney 701 Ocean Street Santa Cruz, CA 95060 Phone: 831-454-2400 Prop65DA@santacruzcounty.us</p>
<p>The Honorable Jill Ravitch Sonoma County, District Attorney 600 Administration Drive Santa Rosa, CA 95403 Jeannie.Barnes@sonoma-county.org</p>	<p>The Honorable Phillip J. Cline Tulare County, District Attorney 221 S Mooney Blvd Visalia, CA 95370 Prop65@co.tulare.ca.us</p>	<p>The Honorable Gregory D. Totten Ventura County, District Attorney 800 S Victoria Ave Ventura, CA 93009 daspecialops@ventura.org</p>	<p>The Honorable Jeff W. Resig Yolo County, District Attorney 301 Second Street Woodland, CA 95695 cfepd@yolocounty.org</p>
<p>The Honorable Mark Ankcorn City of San Diego, Deputy City Attorney 1200 Third Avenue San Diego, CA 92101 CityAttyProp65@sandiego.gov</p>	<p>The Honorable Henry Lifton City of San Francisco, Deputy City Attorney 1390 Market Street, 7th Floor San Francisco, CA 94102 Prop65@sfcityatty.org</p>	<p>The Honorable Nora V. Frimann City of Santa Clara, City Attorney 200 E. Santa Clara Street, 16th Floor San Jose, CA 96113 Proposition65notices@sanjoseca.gov</p>	<p>The Honorable Michael L. Ramsey Butte County, District Attorney 25 County Center Drive Administrative Building Oroville, CA 95965 DA@buttecounty.net</p>
<p>The Honorable George Marquez Imperial County, District Attorney 940 West Main Street, Suite 102 El Centro, CA 92243 teresasolis@co.imperial.ca.us</p>	<p>The Honorable Sarah Hacker Kings County, District Attorney 1400 West Lacey Blvd. Hanford, CA 93230 eservice@co.kings.ca.us</p>	<p>The Honorable Susan Krones Lake County, District Attorney 255 N. Forbes Street Lakeport, CA 95453 countycounsel@lakecountyca.gov</p>	<p>The Honorable Sally O. Moreno Madera County, District Attorney 300 South G Street, St. 300 Madera, CA 93637 mariaElena.leyva@maderacounty.com</p>
<p>The Honorable C. David Eyster Mendocino County, District Attorney P.O. Box 1000 Ukiah, CA 95482 DA@mendocinocounty.gov</p>	<p>The Honorable Cynthia Campbell Modoc County, District Attorney 204 S. Court Street, Room 202 Alturas, CA 96101 DA@co.modoc.ca.us</p>	<p>The Honorable David Anderson Mono County, District Attorney P.O. Box 2053 Mammoth Lakes, CA 93546 districtattorney@mono.ca.gov</p>	<p>The Honorable Stephen M. Wagstaffe San Mateo County, District Attorney 400 County Center, Third Floor Redwood City, CA 94063 DA_info@smcgov.org</p>
<p>The Honorable Sandra Groven Sierra County, District Attorney 100 Courthouse Square Downieville, CA 95936 smarshall@sierracounty.ca.gov</p>	<p>The Honorable Krishna A. Abrams Solano County, District Attorney 675 Texas Street, Suite 4500 Fairfield, CA 94533 DACEPU@solanocounty.gov</p>	<p>The Honorable Mike Feuer City of Los Angeles, City Attorney 200 N. Main Street Los Angeles, CA 90012 cityatty.help@lacity.org</p>	<p>The Honorable Todd Spitzer Orange County, District Attorney 300 N. Flower Street Santa Ana, CA 92703 prop65notice@ocdapa.org</p>

Mail Service List

District Attorney, Alpine County P.O. Box 248 Markleeville, CA 96120	District Attorney, Lake County 255 N. Forbes Street Lakeport, CA 95453	District Attorney, Sierra County 100 Courthouse Square, 2nd Floor Downieville, CA 95936	District Attorney, Amador County 708 Court Street, Suite 202 Jackson, CA 95642
District Attorney, Los Angeles County Hall of Justice 211 West Temple St., Ste 1200 Los Angeles, CA 90012	District Attorney, Siskiyou County Post Office Box 986 Yreka, CA 96097	District Attorney, Butte County 25 County Center Drive, Suite 245 Oroville, CA 95965	District Attorney, Madera County 300 S G Street #300 Madera, CA 93637
District Attorney, Solano County 675 Texas Street, Ste 4500 Fairfield, CA 94533	District Attorney, Colusa County 310 6th Street Colusa, CA 95932	District Attorney, Mendocino County Post Office Box 1000 Ukiah, CA 95482	District Attorney, Stanislaus County 832 12th Street, Ste 300 Modesto, CA 95354
District Attorney, Del Norte County 450 H Street, Room 171 Crescent City, CA 95531	District Attorney, Modoc County 204 S Court Street, Room 202 Alturas, CA 96101-4020	District Attorney, Sutter County 463 2nd Street Yuba City, CA 95991	District Attorney, Glenn County Post Office Box 430 Willows, CA 95988
District Attorney, Mono County Post Office Box 617 Bridgeport, CA 93517	District Attorney, Tehama County Post Office Box 519 Red Bluff, CA 96080	District Attorney, Humboldt County 825 5th Street, 4th Floor Eureka, CA 95501	District Attorney, San Benito County 419 Fourth Street, 2nd Floor Hollister, CA 95023
District Attorney, Trinity County Post Office Box 310 Weaverville, CA 96093	District Attorney, Imperial County 940 West Main Street, Ste 102 El Centro, CA 92243	District Attorney, San Bernardino County 303 West Third Street San Bernardino, CA 92415	District Attorney, Tuolumne County 423 N. Washington Street Sonora, CA 95370
District Attorney, Kern County 1215 Truxtun Avenue Bakersfield, CA 93301	District Attorney, San Mateo County 400 County Ctr., 3rd Floor Redwood City, CA 94063	District Attorney, Yuba County 215 Fifth Street, Suite 152 Marysville, CA 95901	District Attorney, Kings County 1400 West Lacey Boulevard Hanford, CA 93230
District Attorney, Shasta County 1355 West Street Redding, CA 96001	Los Angeles City Attorney's Office City Hall East 200 N. Main Street, Suite 800 Los Angeles, CA 90012	San Jose City Attorney's Office 200 East Santa Clara Street, 16th Floor San Jose, CA 95113	

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 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 27001.¹ 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 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.

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.

¹ 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>.

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 contaminant² 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.

HOW IS PROPOSITION 65 ENFORCED?

² See Section 25501(a)(4).

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.

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.