

# BENCHLINE

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June 25, 2026

**Re: Notice of Violation of California Health & Safety Code § 25249.5 to § 25249.14 (“Proposition 65”) and Notice of Intent to Sue**

Dear CONSERVAS PORTUGAL NORTE d/b/a Briosa Gourmet, International Loft LLC, Amazon.com Services LLC, and Amazon.com Inc., and the appropriate public enforcement agencies:

My firm represents WHEN Justice (“WHEN”) in this matter, and I submit this Notice of Violation and Notice of Intent to Sue (“Notice”) of Cal. Health & Safety Code § 25249.5 to 25249.14 (hereinafter “Proposition 65”), pursuant to Health & Safety Code § 25249.7, on its behalf. This letter serves as a Notice to CONSERVAS PORTUGAL NORTE d/b/a Briosa Gourmet, International Loft LLC, Amazon.com Services LLC, and Amazon.com Inc. (“Alleged Violator(s)”) and the appropriate public enforcement agencies.

Also enclosed please find a Certificate of Merit<sup>1</sup>, Additional Supporting Information<sup>2</sup> thereto, and Certificate of Service<sup>3</sup> appended hereto as Attachment(s) A, B, and C, respectively.

WHEN is a California nonprofit public benefit corporation dedicated to building a cleaner, safer, and more just world by advocating for stronger health, environmental, and safety laws, regulations, and policies. Through impact litigation, education, and advocacy, WHEN mobilizes a community of passionate supporters to drive meaningful, long-lasting change.

## **I. Notice of Intent to Sue Provided No Public Enforcement Actions against Alleged Violator(s)**

If a public enforcement agency has not commenced a diligent prosecution within sixty (60) days of this Notice, in addition to time allotted for method of service, WHEN intends to file a private enforcement action against Alleged Violator(s) in the public interest, pursuant to Cal. Health & Safety Code § 25249.7(d).

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<sup>1</sup> Attachment A has been provided to the Alleged Violator(s) and Attorney General.

<sup>2</sup> Attachment B has only been provided to the Attorney General.

<sup>3</sup> Attachment C has been provided to all recipients of this Notice.

## II. Proposition 65 Legal Background

Under Cal. Health & Safety Code § 25249.6, “[n]o person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to the state to cause cancer or reproductive toxicity without first giving clear and reasonable warning to such individual,” subject to exceptions. Additionally, pursuant to Cal. Health & Safety Code § 25249.8, the State of California has published a list of chemicals known to the State to cause cancer or reproductive toxicity within the meaning of Proposition 65.<sup>4</sup> Listed chemicals relevant to this Notice include: lead<sup>5</sup> and lead compounds<sup>6</sup>, and mercury and mercury compounds<sup>7</sup>.

For guidance, the Office of Environmental Health Hazard Assessment created a summary (“Summary”) of Proposition 65 which includes general information about Proposition 65. A true and correct copy of the Summary is appended hereto as Attachment D.<sup>8</sup>

## III. Alleged Violator(s) and Consumer Products with Listed Proposition 65 Chemicals

The names of Alleged Violator(s) encompassed within this Notice for violations of Proposition 65 are:

- **Manufacturer:** CONSERVAS PORTUGAL NORTE, LDA d/b/a Briosa Gourmet;
- **Distributor/ Retailer:** International Loft LLC;
- **Distributor/ Retailer:** Amazon.com, Inc.; and
- **Distributor/ Retailer:** Amazon.com Services LLC.

WHEN has identified violations of Proposition 65 by Alleged Violator(s) in regard to the products (“Covered Products”) identified below in Table 1. Alleged Violator(s) sell or otherwise provide consumer products directly to consumers by any means, including via the internet, in the State of California that contain listed chemicals without the required clear and reasonable warnings and/or in exceedance of allowable limits.

**Table 1**

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<sup>4</sup> See the Proposition 65 list here: <https://oehha.ca.gov/proposition-65/proposition-65-list>.

<sup>5</sup> On February 27, 1987, the State of California officially listed lead as a chemical known to cause developmental toxicity, and male and female reproductive toxicity.

<sup>6</sup> On October 1, 1992, the State of California officially listed lead and lead compounds as chemicals known to cause cancer.

<sup>7</sup> On July 1, 1990, the State of California officially listed mercury and mercury compounds as chemicals known to cause developmental toxicity, and male and female reproductive toxicity.

<sup>8</sup> Attachment A has only been provided to the Alleged Violator(s).

Covered Products	Listed Chemical(s)	Uniform Product Code ("UPC")
Briosa Gourmet Sardines in Olive Oil, 5 tins x 120g	Mercury and Lead	604912414877

These violations have occurred and are continuing every day since at least September 4, 2025. Upon information and belief, the Covered Products identified in Table 1 have been in violation of Proposition 65 since the products were introduced into the State of California's marketplace and will continue every day until clear and reasonable warnings are produced and until these chemicals are either removed from, or reduced to allowable levels, in the Covered Products.

#### IV. Route of Exposure

Exposure is through ingestion by following the recommended use of the products.

#### V. Preservation of Relevant Evidence

Alleged Violator(s) are obliged to maintain and preserve all documents in their possession that relate in any way to the activities underlying the allegations in this Notice. Document and evidence preservation includes, but is not limited to, the suspension of any document deletion and/or destruction with respect to *all* documents in Alleged Violator(s)' possession, custody, or control. "Document" or "documents" includes, but is not limited to, all hard copy writings as defined in Cal. Evid. Code § 250 ("writing" means handwriting, typewriting, printing, photostating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing, any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored") and all Electronically Stored Information ("ESI") as defined in Cal. Code Civ. Proc. § 2016.020 ("(d) 'Electronic' means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities" and "(e) 'Electronically stored information' means information that is stored in an electronic medium"). *See also Cedars-Sinai Medical Center v. Superior Court*, 18 Cal. 4th 1, 8, 954 P.2d 511, 515 (1998).

WHEN may continue to investigate these Covered Products and other products that may reveal additional violations and result in successive notices of violation.

#### VI. Conclusion

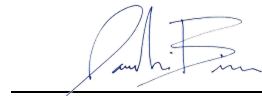
Consistent with the public interest and community right to know goals of Proposition 65, and a desire to have these ongoing violations rectified, WHEN is interested in seeking a resolution of this matter that includes an enforceable written agreement by Alleged Violator(s) to: (1) reformulate the Covered Products so as to eliminate further

exposures to the identified chemicals, or provide appropriate warnings on the labels of these Covered Products; (2) pay an appropriate civil penalty; and (3) provide clear and reasonable warnings compliant with Proposition 65, and its applicable regulations, to all persons located in California who purchased the above products in the last three (3) years. Such a resolution will prevent further unwarned consumer exposures to the identified chemicals, as well as expensive and time-consuming litigation.

Please direct any inquiries or correspondence regarding this Notice to the below listed individual:

Jacqueline E. Biner, Esq.  
Benchline PLLC  
3540 Wilkinson Lane #8  
Lafayette, CA 94549  
jackie@benchline.law

Sincerely,



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Jacqueline E. Biner  
Founder & Managing Partner  
Benchline PLLC

Enclosures and/or Attachments:

1. Certificate of Merit (to Alleged Violator(s) and Attorney General);
  - a. Exhibit 1 to Certificate of Merit: Additional Supporting Information (to Attorney General);
2. Certificate of Service (to all recipients of this Notice); and
3. OEHHA Summary (to Alleged Violator(s)).

**CERTIFICATE OF MERIT**

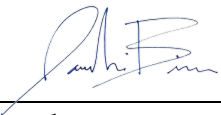
Cal. Health & Safety Code § 25249.7(d)

**Re: CONSERVAS PORTUGAL NORTE d/b/a Briosa Gourmet, International Loft LLC, Amazon.com Services LLC, and Amazon.com Inc., Notice of Proposition 65 violations**

I, Jacqueline E. Biner, hereby declare and certify:

1. This Certificate of Merit accompanies the attached sixty (60) day Notice in which it is alleged that the party(ies) identified in the Notice violated Cal. Health & Safety Code § 25249.6 by exposing individuals to chemical(s) known to the state of California to cause cancer and/or reproductive toxicity without first giving clear and reasonable warning(s) to such individual(s).
2. I am an attorney for the noticing party.
3. I have consulted with one or more persons with relevant and appropriate experience and have assembled evidence attached to the copy of the notice for the California Attorney General as Exhibit 1 to this Certificate of Merit regarding the lack of warnings for the listed chemical(s) that is/are the subject of the Notice.
4. Based on the information obtained 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 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(s) 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 California Attorney General attaches to it factual information sufficient to establish the basis for this certificate, including the information identified in Cal. Health & Safety Code § 25249.7(h)(2) (i.e. the identity of the person(s) consulted with and relied on by the certifier and the facts, studies, and data reviewed by that person).

Dated: June 25, 2026

  
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Jacqueline E. Biner, Esq.

**PROOF OF SERVICE**

I, the undersigned, declare under penalty of perjury:

I am over the age of eighteen (18) years and not a party to this case. I am a resident of or employed in the county where the mailing occurred. My business address is 3540 Wilkinson Lane #8, Lafayette, CA 94549.

I. On June 25, 2026, I caused to be served the following:

1. **SIXTY (60) DAY NOTICE OF VIOLATION SENT IN COMPLIANCE WITH CAL. HEALTH & SAFETY CODE § 25249.7(d);**
2. **THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (“PROPOSITION 65”): A SUMMARY; AND**
3. **CERTIFICATE OF MERIT.**

by **Certified First Class Mail** through the United States Postal Service by placing true and correct copies of the above documents in a sealed envelope, individually addressed to each Alleged Violator listed below, and providing such envelope to a United States Postal Service representative:

Amazon.com, Inc. Corporation Service Company 300 Deschutes Way SW, Suite 208 MC-CSC1 Tumwater, WA 98501 Attn: Legal Department - Legal Process	Amazon.com Services LLC c/o Corporation Service Company 251 Little Falls Drive Wilmington, DE 19808
Amazon.com Services LLC c/o CSC - Lawyers Incorporating Service 2710 Gateway Oaks Drive Sacramento, CA 95833	Michael D. Deal or Current Manager or Managing Member Amazon.com Services LLC 410 Terry Avenue North Seattle, WA 98109
International Loft LLC 1342 W Mcnab Rd Fort Lauderdale, FL 33309	CONSERVAS PORTUGAL NORTE d/b/a Briosia Gourmet Rua Sousa Aroso, 580-620 Apartado 2041 4450-287 Matosinhos Portugal

II. On June 25, 2026, I caused to be served true and correct copies of the following documents:

1. **SIXTY (60) DAY NOTICE OF VIOLATION SENT IN COMPLIANCE WITH CAL. HEALTH & SAFETY CODE § 25249.7(d); and**

## 2. CERTIFICATE OF MERIT.

via **Electronic Mail**, by sending true and correct copies of the above documents, addressed individually, to the recipients listed on the “Electronic Mail Service List” as contained on the Office of the Attorney General Website located at <https://oag.ca.gov/prop65/electronic-service> and listed below:

<p>Ursula Jones Dickson, District Attorney Alameda County 7677 Oakport Street, Suite 650 Oakland, CA 94621 <a href="mailto:CEPDProp65@acgov.org">CEPDProp65@acgov.org</a></p>	<p>Robert K. Priscaro, District Attorney Alpine County P.O. Box 248 Markleville, CA 96120 <a href="mailto:prop65enf@alpinecountyca.gov">prop65enf@alpinecountyca.gov</a></p>	<p>Barbara Yook, District Attorney Calaveras County 891 Mountain Ranch Road San Andreas, CA 95249 <a href="mailto:Prop65Env@co.calaveras.ca.us">Prop65Env@co.calaveras.ca.us</a></p>
<p>Stacey Grassini, Deputy District Attorney Contra Costa County 900 Ward Street Martinez, CA 94553 <a href="mailto:sgrassini@contracostada.org">sgrassini@contracostada.org</a></p>	<p>James Clinchard, Assistant District Attorney El Dorado County 778 Pacific Street Placerville, CA 95667 <a href="mailto:EDCDAPROP65@edcda.us">EDCDAPROP65@edcda.us</a></p>	<p>Lisa A. Smittcamp, District Attorney Fresno County 2100 Tulare Street Fresno, CA 93721 <a href="mailto:consumerprotection@fresnocountyca.gov">consumerprotection@fresnocountyca.gov</a></p>
<p>Thomas L. Hardy, District Attorney Inyo County 168 North Edwards Street Independence, CA 93526 <a href="mailto:inyoda@inyocounty.us">inyoda@inyocounty.us</a></p>	<p>Devin Chandler, Program Coordinator Lassen County 2950 Riverside Drive Susanville, CA 96130 <a href="mailto:dchandler@co.lassen.ca.us">dchandler@co.lassen.ca.us</a></p>	<p>Lori E. Frugoli, District Attorney Marin County 3501 Civic Center Drive Room 145 San Rafael, CA 94903 <a href="mailto:consumer@marincountyda.org">consumer@marincountyda.org</a></p>
<p>Walter W. Wall, District Attorney Mariposa County P.O. Box 730 Mariposa, CA 95338 <a href="mailto:mcda@mariposacounty.org">mcda@mariposacounty.org</a></p>	<p>Kimberly Lewis, District Attorney Merced County 550 West Main Street Merced, CA 95340 <a href="mailto:Prop65@countyofmerced.com">Prop65@countyofmerced.com</a></p>	<p>Jeannine M. Pacioni, District Attorney Monterey County 1200 Aguajito Road Monterey, CA 93940 <a href="mailto:Prop65DA@co.monterey.ca.us">Prop65DA@co.monterey.ca.us</a></p>
<p>Allison Haley, District Attorney Napa County 1127 First Street, Suite C Napa, CA 94559 <a href="mailto:CEPD@countyofnapa.org">CEPD@countyofnapa.org</a></p>	<p>Clifford H. Newell, District Attorney Nevada County 201 Commercial Street Nevada City, CA 95959 <a href="mailto:DA.Prop65@co.nevada.ca.us">DA.Prop65@co.nevada.ca.us</a></p>	<p>Todd Spitzer, District Attorney Orange County 300 N. Flower Street Santa Ana, CA 92703 <a href="mailto:Prop65notice@ocdapa.org">Prop65notice@ocdapa.org</a></p>
<p>Morgan Briggs Gire, District Attorney Placer County 10810 Justice Center Drive Roseville, CA 95678 <a href="mailto:Prop65@placer.ca.gov">Prop65@placer.ca.gov</a></p>	<p>David Hollister, District Attorney Plumas County 520 Main Street Quincy, CA 95971 <a href="mailto:davidhollister@countyofplumas.com">davidhollister@countyofplumas.com</a></p>	<p>Paul E. Zellerbach, District Attorney Riverside County 3072 Orange Street Riverside, CA 92501 <a href="mailto:Prop65@rivcodpa.org">Prop65@rivcodpa.org</a></p>
<p>Anne Marie Schubert, District Attorney Sacramento County 901 G Street Sacramento, CA 95814 <a href="mailto:Prop65@sacda.org">Prop65@sacda.org</a></p>	<p>Summer Stephan, District Attorney San Diego County 330 West Broadway San Diego, CA 92101 <a href="mailto:SanDiegoDAProp65@sdcca.org">SanDiegoDAProp65@sdcca.org</a></p>	<p>Mark Ankcorn, Deputy City Attorney San Diego City Attorney 1200 Third Avenue San Diego, CA 92101 <a href="mailto:CityAttyProp65@sandiego.gov">CityAttyProp65@sandiego.gov</a></p>

Henry Lifton, Deputy City Attorney San Francisco City Attorney 1390 Market Street, 7 <sup>th</sup> Floor San Francisco, CA 94102 <a href="mailto:Prop65@sfcityatty.org">Prop65@sfcityatty.org</a>	Brooke Jenkins, District Attorney San Francisco County 350 Rhode Island Street San Francisco, CA 94103 <a href="mailto:Prop65@sfgov.org">Prop65@sfgov.org</a>	Tori Verber Salazar, District Attorney San Joaquin County 222 E. Weber Avenue, Room 202 Stockton, CA 95202 <a href="mailto:DAConsumer.Environmental@sjcda.org">DAConsumer.Environmental@sjcda.org</a>
Eric J. Dobroth, Deputy District Attorney San Luis Obispo County County Government Center Annex, 4th Floor San Luis Obispo, CA 93408 <a href="mailto:edobroth@co.slo.ca.us">edobroth@co.slo.ca.us</a>	Christopher Dalbey, Deputy District Attorney Santa Barbara County 1112 Santa Barbara St. Santa Barbara, CA 93101 <a href="mailto:DAProp65@co.santa-barbara.ca.us">DAProp65@co.santa-barbara.ca.us</a>	Nora V. Frimann, City Attorney Santa Clara City Attorney 200 E. Santa Clara Street 16 <sup>th</sup> Floor San Jose, CA 96113 <a href="mailto:Proposition65notices@sanjoseca.gov">Proposition65notices@sanjoseca.gov</a>
Bud Porter, Supervising Deputy District Attorney Santa Clara County 70 W Hedding St San Jose, CA 95110 <a href="mailto:EPU@da.sccgov.org">EPU@da.sccgov.org</a>	Jeffrey S. Rosell, District Attorney Santa Cruz County 701 Ocean Street Santa Cruz, CA 95060 <a href="mailto:Prop65DA@santacruzcounty.us">Prop65DA@santacruzcounty.us</a>	Carla Rodriguez, District Attorney Sonoma County 600 Administration Drive, Room 212J Santa Rosa, CA 95403 <a href="mailto:ECLD@sonoma-county.org">ECLD@sonoma-county.org</a>
Tim Ward, District Attorney Tulare County 221 S. Mooney Boulevard Visalia, CA 95370 <a href="mailto:damail@tularecounty.ca.gov">damail@tularecounty.ca.gov</a>	Gregory D. Totten, District Attorney Ventura County 800 S. Victoria Avenue Ventura, CA 93009 <a href="mailto:daspecialops@ventura.org">daspecialops@ventura.org</a>	Jeff W. Reisig, District Attorney Yolo County 301 Second Street Woodland, CA 95695 <a href="mailto:cfepd@yolocounty.org">cfepd@yolocounty.org</a>

III. On June 25, 2026, I caused to be served true and correct copies of the following documents:

1. **SIXTY (60) DAY NOTICE OF VIOLATION SENT IN COMPLIANCE WITH CAL. HEALTH & SAFETY CODE § 25249.7(d);**
2. **CERTIFICATE OF MERIT; AND**
3. **CERTIFICATE OF MERIT ATTACHMENTS**

by **Electronic Upload**, by uploading true and correct copies of the documents, addressed to the California Attorney General at their website address, listed under the “Electronic Upload Service List,” located at <https://oag.ca.gov/prop65/add-60-day-notice>, the office of which is physically located at:

Office of the California Attorney General Prop 65 Enforcement Reporting 1515 Clay Street, Suite 2000 Oakland, CA 94612-0550
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Executed on June 25, 2026, at Lafayette, California.

A handwritten signature in blue ink, appearing to read 'Jacqueline E. Biner', written over a horizontal line.

Jacqueline E. Biner, Esq.

## 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.