

SETTLEMENT AGREEMENT

Richard F. Sowinski (“Plaintiff”), on behalf of himself and in the public interest pursuant to California Health and Safety Code sections 25249.7(d) – (f), on the one hand, and Southern California Edison (“SCE”), on the other hand, enter into this agreement (“Settlement Agreement”) to settle and fully resolve: (a) the lawsuit entitled *Sowinski v. Amerigas Propane L.P., et al.*, filed on October 15, 2008, in the Superior Court for the State of California, County of San Francisco, Case No. CCC-08-480871 (“Lawsuit”); and (b) all alleged violations of the Safe Drinking Water and Toxic Enforcement Act of 1986, Health and Safety Code section 25249.5, *et seq.* (“Proposition 65”) made in Plaintiff’s 60-day notices attached hereto as Exhibits A and B (“Notices”).

1.0 Introduction

1.1 Plaintiff and SCE (hereinafter the “Parties,” or each a “Party”) enter into this Settlement Agreement to settle disputed claims as alleged in the Lawsuit and the Notices.

1.2 On October 22, 2007, Plaintiff sent the Notice contained in Exhibit A to SCE and others alleging violations of Proposition 65 through the production, distribution, and/or sale of propane gas to California consumers. On October 15, 2008, pursuant to the Notice contained in Exhibit A, Plaintiff commenced the Lawsuit as to SCE and others. On December 18, 2008, Plaintiff dismissed the Lawsuit as to SCE only, with the intent of re-filing the Lawsuit as to SCE in the County of Los Angeles.

1.3 On January 28, 2009 the Lawsuit as to SCE was refilled in the County of Los Angeles, San Pedro Branch. On March 10, 2009, Plaintiff sent the Notice contained in Exhibit B to SCE alleging violations of Proposition 65 through the production, distribution, and/or sale of propane gas to California consumers. Although the Motion to Approve the Settlement Agreement was previously filed on February 13, 2009 (to be heard on April 2, 2009), because of the new Notice, that motion hearing date will be continued at least 60 days following the March 10, 2009 Notice, until May 11, 2009 or thereafter.

1.4 The Lawsuit and Notices allege violations of Proposition 65. SCE denies the material allegations of the Lawsuit and the Notices, and denies liability for the causes of action alleged in the complaint in the Lawsuit and/or that could be alleged in any litigation brought pursuant to the Notices.

1.5 By execution of this Settlement Agreement, the Parties do not admit any facts or conclusions of law, including, but not limited to, any facts or conclusions of law regarding any violation of Proposition 65, or any other statutory, regulatory, common law or equitable doctrine. Nothing in this Settlement Agreement shall be construed as an admission by the Parties of any fact, conclusion of law, issue of law, or violation of law, including, but not limited to, any admission concerning the meaning of the terms “knowingly discharge” or “knowingly release” as used in Health and Safety Code section 25249.5; nor shall compliance with the Settlement Agreement constitute or be construed as an admission by the Parties of any fact, conclusion of law, issue of law, or violation of law. Nothing contained in this Settlement Agreement shall constitute or be construed, considered, offered or admitted, in whole or in part, as evidence of an admission or evidence of fault, wrongdoing, liability or violative conduct by SCE, its officers, directors, employees, representatives, consultants, or agents, in any administrative or judicial proceeding or litigation in any court, agency, or other forum.

2.0 SCE’s Obligations

2.1 Proposition 65 Warning Signage Obligations. SCE shall ensure that a Proposition 65 warning signage program is maintained as follows:

(a) one Proposition 65 warning sign substantially in size and form of the current warning sign (as set forth in Exhibit C) shall be posted at the dispensing station located at the Pebbly Beach Generating Station (“PBGS”), 1 Pebbly Beach Road, Avalon, CA 90704;

(b) one Proposition 65 warning sign substantially in size and form of the current warning sign (as set forth in Exhibit C) shall be posted at the main entrance gate located at PBGS, 1 Pebbly Beach Road, Avalon, CA 90704;

(c) those Proposition 65 warning signs shall be clearly readable and state:
“CHEMICALS KNOWN TO THE STATE OF CALIFORNIA TO CAUSE CANCER, BIRTH DEFECTS, OR OTHER REPRODUCTIVE HARM ARE CREATED BY THE COMBUSTION OF PROPANE”;

(d) monthly site inspections shall occur to check the Proposition 65 warning signs for damage or any unauthorized removal; and

(e) pursuant to those monthly site inspections, any damaged or missing Proposition 65 warning signs shall be repaired or replaced promptly.

This Proposition 65 warning signage obligation shall continue until lifted by the Court as not being necessary to comply with Proposition 65, or until SCE can otherwise establish that this Proposition 65 warning signage obligation is not necessary to comply with Proposition 65 and shall so notify Plaintiff and the Attorney General’s Office, Proposition 65 Enforcement Reporting prior to the removal of the warning signs.

2.2 Proposition 65 Warning Obligations. SCE shall ensure that a Proposition 65 warning program is maintained as follows:

(a) provision of a brochure through the billing system to all propane customers that are in SCE’s billing system, made on a semi-annual basis, containing a Proposition 65 warning; and

(b) that Proposition 65 warning shall state: “The Safe Drinking Water and Toxic Enforcement Act of 1986, commonly referred to as Proposition 65, requires the Governor to publish a list of chemicals ‘known to the State to cause cancer, birth defects, or reproductive harm.’ It also requires California businesses to warn the public quarterly of potential exposure to these chemicals which result from the products they use, make, or distribute.

Southern California Edison facilities store propane and distribute propane to wholesale and retail customers in California for various uses. Propane itself is not a listed Proposition 65 chemical. The combustion of propane in appliances, such as stoves or heating systems and vehicles using propane, creates harmful chemicals. These chemicals include carbon monoxide, benzene, formaldehyde, and acetaldehyde – all chemicals known to the State to cause cancer and/or birth defects.

Southern California Edison encourages all of its customers to use propane safely. You should read and follow all use, care, and manufacturer instructions for propane appliances and equipment. Proper ventilation and frequent inspection of propane appliances and equipment are highly recommended. A warning odorant is added to propane so that leaks of unburned gas can be quickly detected. If a gas odor is detected, contact a qualified service technician immediately.”

2.3 Letter to Commercial Purchasers. SCE shall send a letter to its commercial purchasers on a one-time basis describing this settlement and Proposition 65 warnings, as follows:

(a) the letter shall state: "Proposition 65, a California law, requires warnings to persons exposed to chemicals listed under that law, including carbon monoxide, benzene, formaldehyde and acetaldehyde, which may be produced upon the incomplete combustion of propane. We have supplied you with a Material Safety Data Sheet that describes in detail the nature of propane and the safe handling practices that should be followed by people who work with or use it. Particular attention should be paid when using any propane powered equipment, such as forklifts, in enclosed spaces. People in those areas can be exposed to these chemicals.

Two copies of the sign are enclosed. Signs should be posted either on the dispensing unit, on the fence (if any) surrounding the tank, or in such other manner so as to be readable by a customer bringing a propane container for refilling.

If you need additional copies of the Material Safety Data Sheets or the warning sign, or should you have any questions call your local Southern California Edison representative."

(b) Proposition 65 warning signs included with the letter shall be clearly readable and state: "CHEMICALS KNOWN TO THE STATE OF CALIFORNIA TO CAUSE CANCER, BIRTH DEFECTS, OR OTHER REPRODUCTIVE HARM ARE CREATED BY THE COMBUSTION OF PROPANE."

3.0 Plaintiff's Obligations

3.1 Simultaneously to the re-filing of the Lawsuit in Los Angeles, Plaintiff shall file a Motion for Settlement Approval, as described in section 10.0 below.

4.0 Release

4.1 As of the Effective Date of this Settlement Agreement (as defined in section 15.0 below), Plaintiff, on his own behalf and on behalf of the public to the full extent allowed by law, hereby fully releases and forever discharges SCE, its officers, directors, agents, servants, stockholders, employees, representatives, consultants, agents, affiliates, subsidiary and parent corporations, partners, dealers, assigns and successors from any and all rights, claims and actions related to or arising out of the facts and circumstances that are the subject of the causes of action and alleged violations of law asserted in the Lawsuit and/or in the Notices. The scope of this release is intended to cover any and all Claims Covered (as defined in section 5.0 below), including all claims relating to any sale of propane gas on Santa Catalina Island.

4.2 Plaintiff has been fully advised of the contents of California Civil Code section 1542. Plaintiff acknowledges that the claims released in section 4.1 above may include unknown claims and Plaintiff waives section 1542 as to any such unknown claims. Section 1542 reads as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

Plaintiff acknowledges and understands the significance and consequence of this specific waiver of Civil Code section 1542.

4.3 Plaintiff hereby covenants never to sue or challenge in any way or in any forum any of SCE's conduct or actions related in any way to the sale, combustion, distribution and/or use of propane on

Santa Catalina Island by SCE whether based on Proposition 65 or any other legal theory whatsoever, excluding only that Plaintiff remains free to enforce the terms of this Settlement Agreement.

5.0 Claims Covered

5.1 Without in any way limiting the generality and breadth of the releases in section 4.0 above, this Settlement Agreement is specifically understood to be a final and binding release and resolution of the following "Claims Covered":

5.1.1 Any and all Proposition 65 claims that were or could have been asserted in the Lawsuit or pursuant to the Notices, or either of them, arising out of the facts and circumstances related to any alleged discharge or release of carbon monoxide, benzene, formaldehyde, and acetaldehyde through the manufacture, combustion, incomplete combustion, distribution and/or sale of propane, including, without limitation, all claims with respect to the emission, creation, presence, or migration of such Designated Chemicals.

5.1.2 Any and all future Proposition 65 claims that may be asserted by any person on behalf of the public against SCE arising out of any alleged discharge or release of carbon monoxide, benzene, formaldehyde, and acetaldehyde through the manufacture, combustion, incomplete combustion, distribution and/or sale of propane by SCE, so long as SCE is in compliance with its obligations pursuant to section 2.0 above and, at the time of the alleged Proposition 65 claim, warning signs were posted pursuant to section 2.1 above.

6.0 Attorneys Fees and Costs

6.1 Attorneys Fees and Costs: Within ten (10) business days after the Effective Date (defined in section 15.0 below), SCE shall pay \$10,000 to Plaintiff's counsel for attorneys' fees and costs. Payment shall be made to Graham & Martin LLP and sent to the attention of Anthony Graham, Esq. at the address noted below in section 14.0. Except as expressly provided in this section 6.1, the Parties waive any claim to attorneys' fees and costs in connection with the Lawsuit, the Notices, and/or this Settlement Agreement.

7.0 Authority to Enter Into Settlement Agreement

7.1 Each signatory to this Settlement Agreement represents and warrants that he or she is authorized to sign this Settlement Agreement on behalf of the Party for which he or she is signing, and thereby to bind that Party fully to the terms of this Settlement Agreement.

8.0 Attorney General Review

8.1 Settlement of this case is contingent on submittal of this Settlement Agreement to the Attorney General's Office for review. If the Attorney General's Office expresses reservations about this Settlement Agreement, SCE shall not be obligated to proceed with this Settlement Agreement and may void the Settlement Agreement by giving written notice to that effect to Plaintiff's counsel.

9.0 Execution in Counterparts and by Electronic Media

9.1 This Settlement Agreement may be executed in counterparts which, taken together, shall constitute one and the same agreement. This Settlement Agreement may also be executed and/or delivered by facsimile and/or email transmission and in such event all facsimile and/or email signatures shall be deemed originals for all purposes hereof.

10.0 Approval of Settlement Agreement Required

10.1 Plaintiff shall submit this Settlement Agreement to the Court for consideration as required by Health and Safety Code section 25249.7(f)(4). Plaintiff shall provide the Court with the necessary information to allow the Court to make the findings required by Health and Safety Code section 25249.7(f)(4).

10.2 This Settlement Agreement shall be null and void and without any force or effect, unless approved by the Court.

11.0 Entire Agreement

11.1 This Settlement Agreement: (a) constitutes the entire agreement between the Parties concerning the subject matter hereof; and (b) supersedes any previous oral or written agreements concerning the subject matter hereof.

12.0 Modification and Interpretation of Settlement Agreement

12.1 This Settlement Agreement may only be modified in writing signed by any Party to be bound thereby.

12.2 The terms of this Settlement Agreement are the product of arms-length negotiations between the Parties, through their respective counsel of choice, and no provision shall be construed against the drafter thereof. This Settlement Agreement shall be governed by and construed in accordance with the laws of the State of California. The venue for any disputes concerning this Agreement shall be in Los Angeles County.

13.0 Benefited Parties

13.1 Without in any way limiting the generality and breadth of the releases in section 4.0 and the provisions of section 5.0 above, it is understood that this Settlement Agreement shall inure to the benefit of SCE and any other entity related to the foregoing entity, and any of their successors, affiliates, subsidiaries, and assigns, and their officers, employees, or agents.

14.0 Notification Requirements

14.1 Any notice required or permitted hereunder shall be effective only if in writing and delivered in person or sent by telecopy, certified or registered mail return receipt requested, or traceable overnight delivery service, to the following designees:

For Plaintiff:

Anthony Graham, Esq.
Graham & Martin LLP
950 South Coast Drive, Suite 220
Costa Mesa, CA 92626
Fax: (714) 850-9392

For SCE:

James L. Arnone, Esq.
Latham & Watkins LLP
355 South Grand Ave.
Los Angeles, CA 90071
Fax: (213) 891-8763
Phone: (213) 485-1234

Michael J. Barrett, Esq.
Southern California Edison
2244 Walnut Grove Ave., Suite 331
Rosemead, CA 91770
Fax: (626) 302-6951
Phone: (626) 302-6962

Any Party may change its designee(s) by providing notice of such change pursuant to this section.

15.0 Effective Date

15.1 The “Effective Date” specified in this Settlement Agreement is the date that the Court enters an order approving this Settlement Agreement and dismissing the Lawsuit, and that has become final and non-appealable.

15.2 For purposes of section 15.1, any order approving this Settlement Agreement shall be final and non-appealable on the date that all rights to challenge the order on appeal have expired, or, if an appeal of the order is properly filed, on the date when all rights to seek review of an appellate decision upholding the order have expired.

16.0 Effect Of Sale Of Business

16.1 In the event that any person or entity purchases or acquires all or any portion of SCE’s propane business on Santa Catalina Island, then: (1) SCE and all persons or entities related to it shall be fully and permanently relieved of any and all obligations under this Settlement Agreement; and (2) the buyer shall have the option but not the obligation to follow the terms of this Settlement Agreement and, if the buyer elects to follow the terms of this Settlement Agreement, the buyer shall have the full protections and benefits afforded to SCE under this Settlement Agreement.

17.0 Continuing Jurisdiction of the Court

17.1 The "Court" specified in this Settlement Agreement is the Superior Court of the State of California in and for the County of Los Angeles. The Court shall retain jurisdiction to enforce the terms of this Settlement Agreement.

AGREED TO AS OF JANUARY 20, 2009, AS MODIFIED AS OF MARCH 31, 2009, SUBJECT TO THE FUTURE EFFECTIVE DATE:

Dr. Richard F. Sowinski

Southern California Edison

By: *Richard Sowinski*

By: _____

Title: _____

Title: _____

APPROVED AS TO FORM:

Graham & Martin LLP

Latham & Watkins LLP

By: *Anthony Graham*
Anthony G. Graham
Attorneys for Dr. Richard F. Sowinski

By: _____
James L. Arnone
Attorneys for Southern California Edison

LAI1927727.9

17.0 Continuing Jurisdiction of the Court

17.1 The "Court" specified in this Settlement Agreement is the Superior Court of the State of California in and for the County of Los Angeles. The Court shall retain jurisdiction to enforce the terms of this Settlement Agreement.

AGREED TO AS OF JANUARY 20, 2009, AS MODIFIED AS OF MARCH 31, 2009, SUBJECT TO THE FUTURE EFFECTIVE DATE:

Dr. Richard F. Sowinski

By: _____

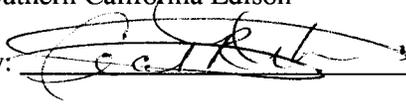
Title: _____

APPROVED AS TO FORM:
Graham & Martin LLP

By: _____

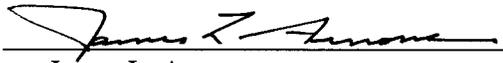
Anthony G. Graham
Attorneys for Dr. Richard F. Sowinski

Southern California Edison

By:  _____

Title: Senior Vice President
Safety, Operations Support
Chief Procurement Officer

Latham & Watkins LLP

By:  _____

James L. Arnone
Attorneys for Southern California Edison

LA1927727.9

EXHIBIT

EXHIBIT A

October 22, 2007

Via First Class Mail
PROPANE GAS PRODUCERS,
DISTRIBUTORS AND RETAILERS
(See Certificate of Service)

**60-DAY NOTICE OF INTENT TO SUE
FOR VIOLATIONS OF PROPOSITION 65**

Dear Messrs. and Madames:

This letter constitutes notice that the following companies have violated and continue to violate California's Safe Drinking Water and Toxic Enforcement Act of 1986 (Health & Safety Code § 25249.5 *et seq.*, commonly known as Proposition 65).

(1) General Information.

For general information regarding Proposition 65, please see the attached Appendix A, entitled, "The California Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary," which was prepared by the Office of Environmental Health Hazard Assessment of the California Environmental Protection Agency. (A copy is not provided to the public enforcement agencies which receive copies of this notice.) 22 California Code of Regulations § 12903(b)(1).

(2) Description of Violations.

Alleged Violators:

- **Refineries:** BP Products North America, Inc., BP Amoco Chemical Company, Chevron Phillips Chemical Company LP, ConocoPhillips Company, Shell Chemical LP, Tesoro Refining & Marketing Co., and Valero Marketing & Supply Co., Equilon Enterprises LLC
- **Distributors:** Amerigas Propane, L.P., Campora Wholesale Propane, Inc., Ferrellgas, Inc., Ferrellgas Partners, L.P., Southern California Edison Company, and Suburban Propane Gas Corporation
- **Retailers:** Amerigas Propane, L.P., Ferrellgas, Inc., Ferrellgas Partners, L.P., U-Haul Co. of California, and Suburban Propane Gas Corporation

Consumer Product: Propane gas.

Listed Chemical Involved in Alleged Violations: Benzene.

Time Period of Violations: From at least October 22, 2003 to the present day.

Route of Exposure: Inhalation.

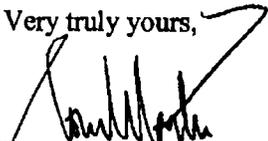
Nature of Alleged Violations: The alleged violators respectively produce propane gas, distribute and/or sell propane gas to California consumers, who (by their reasonably foreseeable use of the consumer product) burn it for the purpose of cooking. The act of burning propane gas produces benzene which is then inhaled by consumers. Benzene is on the Governor's list, as expressed at 22 C.C.R. 12000, and is known to the State of California to cause cancer and reproductive toxicity. The alleged violators do not provide California consumers with clear and reasonable warnings regarding exposure to benzene as a consequence of the product's reasonably foreseeable use. Without first receiving clear and reasonable warnings (as required by Proposition 65), California consumers purchase propane gas, burn it, and thereby unwittingly inhale and are exposed to benzene.

Noticing Individual: This Notice is provided by Dr. Richard F. Sowinski, who is a California citizen and who has an interest in protecting the public from health hazards posed by toxic chemicals. Dr. Sowinski's address and telephone number are: 1457 Ramsay Circle, Walnut Creek, California 94597, (925) 938-2693. However, Dr. Sowinski requests that all inquiries about this Notice be directed to him at the following address and telephone number:

Dr. Richard F. Sowinski
c/o Thomas G. Martin, Esq.
Law Office of Thomas Glenn Martin
One World Trade Center, Suite 800
Long Beach, California 90831
Telephone: (562) 208-9088
Facsimile: (562) 684-0882

Pursuant to Health and Safety Code § 25249.7(d), the Noticing Individual intends to bring suit in the public interest against the Alleged Violator sixty (60) days hereafter to correct the violations occasioned by the failure to warn of exposures to listed chemicals.

Very truly yours,


Thomas G. Martin

Enclosures

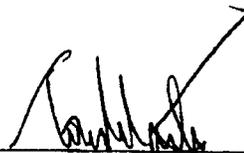
CERTIFICATE OF MERIT

Health and Safety Code Section 25249.7(d)

I, Thomas G. Martin, hereby declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged the parties identified in the notices have violated Health and Safety Code section 25249.6 by failing to provide clear and reasonable warnings.
2. I am an attorney for the noticing party.
3. I have consulted with one or more persons with relevant and appropriate experience or expertise who has reviewed facts, studies, or other data regarding 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 plaintiff's 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: October 22, 2007



Thomas G. Martin

CERTIFICATE OF SERVICE

I, Thomas G. Martin, declare under penalty of perjury under the laws of the State of California that the following is true and correct:

I am over the age of eighteen years and not a party to this action. My business address is: One World Trade Center, Suite 800, Long Beach, CA 90831.

On October 22, 2007, I served the following documents:

60-DAY NOTICE OF INTENT TO SUE FOR VIOLATIONS OF PROPOSITION 65;

APPENDIX A. THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY (NOT SERVED ON PUBLIC ENFORCERS);

CERTIFICATE OF MERIT; AND

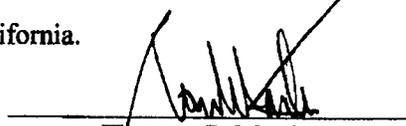
CERTIFICATE OF MERIT ATTACHMENTS (SERVED ONLY ON THE ATTORNEY GENERAL)

- a) on each of the alleged violators listed in the attached service list via First Class by placing a true and correct copy thereof in a sealed envelope with postage fully prepaid, addressed as set forth in the attached service list, and providing such to a United States Postal Service Representative; and
- b) on the public enforcers by placing a true and correct copy in a sealed envelope, addressed to each party listed below as follows:

<i>Via Priority Mail by providing such envelope, postage fully prepaid to a U.S Postal Service Representative:</i>	The Attorney General of the State of California
<i>Via First Class Mail by providing each envelope, postage fully prepaid to a U.S Postal Service Representative:</i>	The District Attorney for each of the 58 counties in the State of California, and The City Attorney for Los Angeles, San Diego, San Jose, San Francisco and Sacramento.

A service list of addresses for each of these public enforcer recipients is attached.

Executed on October 22, 2007 in Long Beach, California.


Thomas G. Martin

SERVICE LIST

Public Enforcers:

- The Honorable Tom Orloff
Alameda County District Attorney
1225 Fallon Street, Room 900
Oakland, CA 94612
- The Honorable William Richmond
Alpine County District Attorney
270 Laramie Street, PO BOX 248
Markleeville, CA 96120
- The Honorable Todd Riebe
Amador County District Attorney
708 Court Street, #202
Jackson, CA 95642
- The Honorable Michael Ramsey
Butte County District Attorney
25 County Center Drive,
Administration Building
Oroville, CA 95965
- The Honorable Jeffrey Tuttle
Calaveras County District Attorney
891 Mountain Ranch Road
San Andreas, CA 95249
- The Honorable John R. Payner
Colusa County District Attorney
547 Market Street
Colusa, CA 95932
- The Honorable Robert J. Kochly
Contra Costa County District Attorney
725 Court Street, 4th Floor, Rm. 402
Martinez, CA 94553
- The Honorable Michael Riese
Del Norte County District Attorney
450 H Street
Crescent City, CA 95531
- The Honorable Gary Lacy
El Dorado County District Attorney
515 Main Street
Placerville, CA 95667
- The Honorable Elizabeth Egan
Fresno County District Attorney
2220 Tulare Street, #1000
Fresno, CA 93721
- The Honorable Robert Holzapfel
Glenn County District Attorney
540 West Sycamore
Willows, CA 95988
- The Honorable Paul Gellego
Humboldt County District Attorney
825 5th Street
Eureka, CA 95501
- The Honorable Gilbert Otero
Imperial County District Attorney
939 West Main Street
El Centro, CA 92243
- The Honorable Arthur Maillet
Inyo County District Attorney
PO Drawer D
Independence, CA 93526
- The Honorable Edward R. Jagels
Kern County District Attorney
1215 Truxtun Avenue
Bakersfield, CA 93301
- The Honorable Ronald Calhoun
Kings County District Attorney
1400 West Lacey Boulevard
Hanford, CA 93230
- The Honorable Gerhard Luck
Lake County District Attorney
255 North Forbes Street
Lakeport, CA 95453
- The Honorable Robert Burns
Lassen County District Attorney
220 S. Lassen Street, Ste. 8
Susanville, CA 96130
- The Honorable Steve Cooley
Los Angeles County District Attorney
210 West Temple Street
Los Angeles, CA 90012
- The Honorable Ernest Licalsi
Madera County District Attorney
209 West Yosemite Avenue
Madera, CA 93637
- The Honorable Edward Berberian
Marin County District Attorney
3501 Civic Center Drive, Room 130
San Rafael, CA 94903
- The Honorable Robert Brown
Mariposa County District Attorney
5101 Jones Street, P.O. Box 730
Mariposa, CA 95338
- The Honorable Norman Vroman
Mendocino County District Attorney
100 North State Street, G-10
Ukiah, CA 95482
- The Honorable Gordon Spencer
Merced County District Attorney
2222 M Street
Merced, CA 95340
- The Honorable Jordan Funk
Modoc County District Attorney
204 S. Court Street, Room 202
Alturas, CA 96101
- The Honorable George Booth
Mono County District Attorney
Old Court House, Main Street
Bridgeport, CA 93517
- The Honorable Dean Filippo
Monterey County District Attorney
240 Church Street, #101
Salinas, CA 93901
- The Honorable Gary Lieberstein
Napa County District Attorney
931 Parkway Mall
Napa, CA 94559
- The Honorable Michael Ferguson
Nevada County District Attorney
201 Church Street, Suite 8
Nevada City, CA 95959
- The Honorable Tony Rackauskas
Orange County District Attorney
401 Civic Center Drive West
Santa Ana, CA 92701
- The Honorable Bradford Fenocchio
Placer County District Attorney
11562 B Avenue
Auburn, CA 95603
- The Honorable Jeff Cuman
Plumas County District Attorney
520 Main Street, Room 404
Quincy, CA 95971
- The Honorable Grover Trask II
Riverside County District Attorney
4075 Main Street
Riverside, CA 92501
- The Honorable Jan Scully
Sacramento County District Attorney
901 G Street
Sacramento, CA 95814
- The Honorable John Sarsfield
San Benito County District Attorney
419 4th Street, Second Floor
Hollister, CA 95203
- The Honorable Michael Ramos
San Bernardino County District Attorney
316 N. Mountain View Avenue
San Bernardino, CA 92415
- The Honorable Ronnie Dumanis
San Diego County District Attorney
330 W. Broadway Street, Suite 1320
San Diego, CA 92101
- The Honorable Kamala Harris
San Francisco County District Attorney
850 Bryant Street, Room 325
San Francisco, CA 94103
- The Honorable James Willett
San Joaquin County District Attorney
222 E. Weber Avenue
2nd Floor, Room 202
Stockton, CA 95201
- The Honorable Otrald Shea
San Luis Obispo County District Attorney
1050 Monterey Street, Room 450
San Luis Obispo, CA 93408
- The Honorable James Fox
San Mateo County District Attorney
400 County Center, Third Floor
Redwood City, CA 94063
- The Honorable Thomas Sneddon, Jr.
Santa Barbara County District Attorney
1112 Santa Barbara Street
Santa Barbara, CA 93101
- The Honorable George Kennedy
Santa Clara County District Attorney
70 West Hedding Street, West Wing
San Jose, CA 95110
- The Honorable Bob Lee
Santa Cruz County District Attorney
701 Ocean Street, Room 200
Santa Cruz, CA 95060
- The Honorable Gerald Benito
Shasta County District Attorney
1525 Court Street, Third Floor
Redding, CA 96001
- The Honorable Lawrence Allen
Sierra County District Attorney
100 Courthouse Square, Second Floor
Downsville, CA 95936
- The Honorable James Andrus
Siskiyou County District Attorney
311 4th Street
Yreka, CA 96097
- The Honorable David Paulson
Solano County District Attorney
675 Texas Street, Suite 4500
Fairfield, CA 94533
- The Honorable Stephan Passalacqua
Sonoma County District Attorney
600 Administration Drive, Room 212J
Santa Rosa, CA 95403
- The Honorable Carol Shipley
Stanislaus County District Attorney
800 11th Street, Room 200
Modesto, CA 95353
- The Honorable Carl Adams
Sutter County District Attorney
446 Second Street
Yuba City, CA 95991
- The Honorable Gregg Cohen
Tehama County District Attorney
PO Box 519
Red Bluff, CA 96080
- The Honorable Michael B. Harper
Trinity County District Attorney
PO Box 310
Weaverville, CA 96093
- The Honorable Phillip Cline
Tulare County District Attorney
221 South Mooney Boulevard, Suite 224
Visalia, CA 93291
- The Honorable Donald Segerstrom, Jr.
Tuolumne County District Attorney
2 South Green Street
Sonora, CA 95370
- The Honorable Gregory Totten
Ventura County District Attorney
800 South Victoria Avenue
Ventura, CA 93009
- The Honorable David C. Henderson
Yolo County District Attorney
301 Second Street
Woodland, CA 95695
- The Honorable Patrick McGrath
Yuba County District Attorney
215 Fifth Street
Marysville, CA 95901
- The Honorable Rockard Delgadillo
City Attorney, Los Angeles
200 North Main Street
Los Angeles, CA 90012
- The Honorable Michael Aguirre
City Attorney, San Diego
1200 Third Avenue, Suite 1620
San Diego, CA 92101
- The Honorable Samuel Jackson
City Attorney, Sacramento
915 I Street, 4th Floor
Sacramento, CA 95814
- The Honorable Dennis J. Herrera
City Attorney, San Francisco
City Hall, Room 234
San Francisco, CA 94102
- The Honorable Richard Doyle
City Attorney, San Jose
200 East Santa Clara Street
San Jose, CA 95113
- Office of the California Attorney General
Proposition 65 Enforcement Reporting
ATTN: Prop 65 Coordinator
1515 Clay Street, Suite 2000
Oakland, CA 94612-0550

SERVICE LIST (cont'd)

Alleged Violators:

President, CEO or General Counsel
BP Products North America, Inc.
41101 Winfield Road
Warrenville, IL 60555

BP Products North America, Inc.
C/O CSC - LAWYERS INCORPORATING SVC.
(Agent for Service of Process)
P.O. Box 526036
Sacramento, California 95852

President, CEO or General Counsel
BP Amoco Chemical Company
41101 Winfield Road
Warrenville, IL 60555

BP Amoco Chemical Company
C/O CSC - LAWYERS INCORPORATING SVC.
(Agent for Service of Process)
P.O. Box 526036
Sacramento, California 95852

President, CEO or General Counsel
Chevron Phillips Chemical Company LP
Specialty Chemicals
10001 Six Pines Drive
The Woodlands, TX 77380

President, CEO or General Counsel
ConocoPhillips Company
600 N. Dairy Ashford
Houston, TX 77079-1175

ConocoPhillips Company
C/O CSC - LAWYERS INCORPORATING SVC.
(Agent for Service of Process)
P.O. Box 526036
Sacramento, California 95852

President, CEO or General Counsel
Shell Chemical L.P.
P.O. Box 2463
Houston, TX 77252-2463

President, CEO or General Counsel
Tesoro Refining & Marketing Co.
300 Concord Plaza Drive
San Antonio, TX 78216-6999

Tesoro Refining & Marketing Co.
C/O CSC - LAWYERS INCORPORATING SVC.
(Agent for Service of Process)
P.O. Box 526036
Sacramento, California 95852

President, CEO or General Counsel
Valero Marketing & Supply Company
One Valero Way
San Antonio, TX 78249-1616

Valero Marketing & Supply Company
C/O CT CORPORATION SYSTEM
(Agent for Service of Process)
818 West Seventh Street
Los Angeles, CA 90017

President, CEO or General Counsel
Equilon Enterprises LLC
P.O. Box 674414
Houston, TX 77267-4414

President, CEO or General Counsel
Equilon Enterprises LLC
910 Louisiana Street, Suite 2556
Houston, TX 77002-5227

President, CEO or General Counsel
AmeriGas Propane, L.P.
P.O. Box 965
Valley Forge, PA 19482

President, CEO or General Counsel
AmeriGas Propane, L.P.
460 N Gulph Road
King of Prussia, PA 19406

President, CEO or General Counsel
Campora Wholesale Propane, Inc.
2537 S. Mariposa Road
Stockton, CA 95205

Campora Wholesale Propane, Inc.
C/O AL WARREN HOSLETT
(Agent for Service of Process)
311 E. Main Street
Stockton, CA 95202

President, CEO or General Counsel
Suburban Propane Gas Corporation
One Suburban Plaza
240 Route 10 West
P.O. Box 206
Whippany, NJ 07981-0206

Suburban Propane Gas Corporation
C/O CT CORPORATION SYSTEM
(Agent for Service of Process)
818 West Seventh Street
Los Angeles, CA 90017

President, CEO or General Counsel
Ferrellgas, Inc.
One Liberty Plaza
Liberty, MO 64068

Ferrellgas, Inc.
C/O CT CORPORATION SYSTEM
(Agent for Service of Process)
818 West Seventh Street
Los Angeles, CA 90017

President, CEO or General Counsel
Southern California Edison Company
2244 Walnut Grove Avenue
Rosemead, CA 91770

Southern California Edison Company
C/O VICKI KAISER
(Agent for Service of Process)
2244 Walnut Grove Avenue.
Rosemead, CA 91770

President, CEO or General Counsel
Ferrellgas Partners, L.P.
7500 College Boulevard, Suite 1000
Overland Park, Kansas 66210

President, CEO or General Counsel
U-Haul Co. of California
U-Haul Legal Department
2721 N. Central Avenue
Phoenix, AZ 85004

U-Haul Co. of California
C/O CT CORPORATION SYSTEM
(Agent for Service of Process)
818 West Seventh Street
Los Angeles, CA 90017

EXHIBIT

EXHIBIT B

GRAHAM & MARTIN, LLP

ATTORNEYS AT LAW

950 S. COAST DRIVE, SUITE 220
COSTA MESA, CALIFORNIA 92626TELEPHONE (714) 850-9390
FACSIMILE (714) 850-9392

March 10, 2009

**AMENDED SIXTY DAY NOTICE OF INTENT TO SUE SOUTHERN CALIFORNIA
EDISON PURSUANT TO CALIFORNIA HEALTH & SAFETY CODE SECTION 25249.5 ET SEQ**

This letter constitutes an amendment to the earlier Sixty Day Notice of Intent to Sue sent by Dr. Richard Sowinski to the President of Southern California Edison informing the company that it has violated and continues to violate California's Safe Drinking Water and Toxic Enforcement Act of 1986 (Health & Safety Code § 25249.5 *et seq.*, commonly known as Proposition 65). This Amended Notice has been served upon counsel for Southern California Edison because the parties are currently in litigation. Counsel for Southern California Edison has agreed to accept service of this Amended Notice.

(1) General Information.

For general information regarding Proposition 65, please see the attached "The California Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary," which was prepared by the Office of Environmental Health Hazard Assessment of the California Environmental Protection Agency. (A copy is not provided to the public enforcement agencies which receive copies of this notice.) 22 California Code of Regulations § 12903(b)(1).

(2) Description of Violations.

Alleged Violator: Southern California Edison.

Consumer Product: Propane gas.

Listed Chemicals Involved in Alleged Violations: Benzene, carbon monoxide, formaldehyde and acetaldehyde (hereinafter referred to collectively as "the Designated Chemicals").

Time Period of Violations: From at least October 22, 2003 to the present day.

Route of Exposure: Inhalation.

Nature of Alleged Violations: Southern California Edison provides propane gas sold to California consumers on Catalina Island, who (by their reasonably foreseeable use of the consumer product) burn it for the purpose of cooking, heating etc. The act of burning propane gas produces benzene, carbon monoxide, formaldehyde and acetaldehyde which are then inhaled by consumers. These Designated

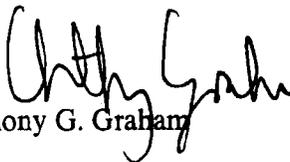
Chemicals are on the Governor's list, as expressed at 22 C.C.R. 12000, and are known to the State of California to cause cancer and reproductive toxicity. Southern California Edison does not provide California consumers with clear and reasonable warnings regarding exposure to the Designated Chemicals as a consequence of the reasonably foreseeable use of propane. Without first receiving clear and reasonable warnings (as required by Proposition 65), California consumers purchase propane gas, burn it, and thereby unwittingly inhale and are exposed to the Designated Chemicals.

Noticing Individual: This Notice is provided by Dr. Richard F. Sowinski, who is a California citizen and who has an interest in protecting the public from health hazards posed by toxic chemicals. Dr. Sowinski's address and telephone number are: 1457 Ramsay Circle, Walnut Creek, California 94597, (925) 938-2693. However, Dr. Sowinski requests that all inquiries about this Notice be directed to him at the following address and telephone number:

Dr. Richard F. Sowinski
c/o Anthony G. Graham, Esq.
Graham & Martin LLP
950 South Coast Drive, Ste. 220
Costa Mesa, CA 92626
Telephone: (714) 850-9390
Facsimile: (714) 850-9392

Pursuant to Health and Safety Code § 25249.7(d), the Noticing Individual intends to bring suit in the public interest against the Alleged Violator sixty (60) days hereafter to correct the violations occasioned by the failure to warn of exposures to listed chemicals.

Very truly yours,


Anthony G. Graham

Enclosures

CERTIFICATE OF MERIT
Health and Safety Code Section 25249.7(d)

I, Anthony G. Graham, hereby declare:

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

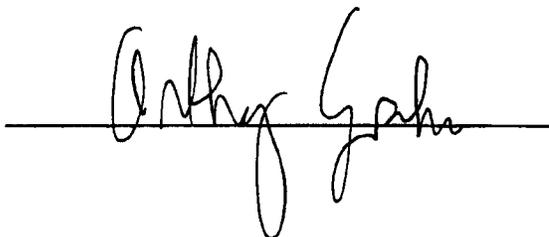
2. I am member of the State Bar of California, a partner of the law firm of Graham & Martin, LLP, and attorney for noticing party Consumer Defense Group Action.

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 exposures to the listed chemicals that are the subject of the action.

4. Based on the information obtained through those consultations, and on all other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that “reasonable and meritorious case for the private action” means that the information provides a credible basis that all elements of the 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.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at Costa Mesa, California on March 10, 2009.

A handwritten signature in black ink, appearing to read "Anthony Gahn", is written over a solid horizontal line. The signature is cursive and somewhat stylized.

OFFICE OF ENVIRONMENTAL HEALTH
HAZARD ASSESSMENT
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

THE SAFE DRINKING WATER AND TOXIC
ENFORCEMENT ACT OF 1986
(PROPOSITION 65): A SUMMARY

The following summary has been prepared by the Office of Environmental Health Hazard Assessment, the lead agency for the implementation of the Safe Drinking Water and Toxic Enforcement Act of 1986 (commonly known as "Proposition 65"). A copy of this summary must be included as an attachment to any notice of violation served upon an alleged violator of the Act. The summary provides basic information about the provisions of the law, and is intended to serve only as a convenient source of general information. It is not intended to provide authoritative guidance on the meaning or application of the law. The reader is directed to the statute and its implementing regulations (see citations below) for further information.

Proposition 65 appears in California law as Health and Safety Code Sections 25249.5 through 25249.13. Regulations that provide more specific guidance on compliance, and that specify procedures to be followed by the State in carrying out certain aspects of the law, are found in Title 22 of the California Code of Regulations, Sections 12000 through 14000.

WHAT DOES PROPOSITION 65 REQUIRE?

The "Governor's List." Proposition 65 requires the Governor to publish a list of chemicals that are known to the State of California to cause cancer, or birth defects or other reproductive harm. This list must be updated at least once a year. Over 550 chemicals have been listed as of May 1, 1996. Only those chemicals that are on the list are regulated under this law. Businesses that produce, use, release or otherwise engage in activities involving those chemicals must comply with the following:

Clear and reasonable warnings. A business is required to warn a person before "knowingly and intentionally" exposing that person to a listed chemical. The warning given must be "clear and reasonable." This means that the warning must: (1) clearly make known that the chemical involved is known to cause cancer, or birth defects or other reproductive harm; and (2) be given in such a way that it will effectively reach the person before he or she is exposed. Exposures are exempt from the warning requirement if they occur less than twelve months after the date of listing of the chemical.

Prohibition from discharges into drinking water. A business must not knowingly discharge or release a listed chemical into water or onto land where it passes or probably will pass into a source of drinking water. Discharges are exempt from this requirement if they occur less than twenty months after the date of listing of the chemical.

DOES PROPOSITION 65 PROVIDE ANY EXEMPTIONS?

Yes. The law exempts:

Governmental agencies and public water utilities. All agencies of the federal, State or local government, as well as entities operating public water systems, are exempt.

Businesses with nine or fewer employees. Neither the warning requirement nor the discharge prohibition applies to a business that employs a total of nine or fewer employees.

Exposures that pose no significant risk of cancer. For chemicals that are listed as known to the State to cause cancer ("carcinogens"), a warning is not required if the business can demonstrate that the exposure occurs at a level that poses "no significant risk." This means that the exposure is calculated to result in not more than one excess case of cancer in 100,000 individuals exposed over a 70-year lifetime. The Proposition 65 regulations identify specific "no significant risk" levels for more than 250 listed carcinogens.

Exposures that will produce no observable reproductive effect at 1,000 times the level in question. For chemicals known to the State to cause birth defects or other reproductive harm ("reproductive toxicants"), a warning is not required if the business can demonstrate that the exposure will produce no observable effect, even at 1,000 times the level in question. In other words, the level of exposure must be below the "no observable effect level (NOEL)," divided by a 1,000-fold safety or uncertainty factor. The "no observable effect level" is the highest dose level which has not been associated with an observable adverse reproductive or developmental effect.

Discharges that do not result in a "significant amount" of the listed chemical entering into any source of drinking water. The prohibition from discharges into drinking water does not apply if the discharger is able to demonstrate that a "significant amount" of the listed chemical has not, does not, or will not enter any drinking water source, and that the discharge complies with all other applicable laws, regulations, permits, requirements, or orders. A "significant amount" means any detectable amount, except an amount that would meet the "no significant risk" "no observable effect" test if an individual were exposed to such amount in drinking water.

HOW IS PROPOSITION 65 ENFORCED?

Enforcement is carried out through civil lawsuits. These lawsuits may be brought by the Attorney General, any district attorney, or certain city attorneys (those in cities with a population exceeding 750,000). Lawsuits may also be brought by private parties acting in the public interest, only after providing notice of the alleged violation to the Attorney General, the appropriate district attorney and city attorney, and the business accused of the violation. The notice must provide adequate information to allow the recipient to assess the nature of the alleged violation. A notice must comply with the information and procedural requirements specified in regulations (Title 22, California Code of Regulations, Section 129). A private party may not pursue an enforcement action directly under Proposition 65 if one of the governmental officials noted above initiates an action within sixty days of the notice.

A business found to be in violation of Proposition 65 is subject to penalties of up to \$2,500 per day for each violation. In addition, the business may be ordered by a court of law to stop committing the violation.

FOR FURTHER INFORMATION...

Contact the Office of Environmental Health Hazard Assessment's Proposition 65 Implementation Office at (916) 445-6900.

§ 14000. Chemicals Required by State or Federal Law Have Been Tested for Potential to Cause Cancer or Reproductive Toxicity, but Which Have Not Been Adequately Tested As Required.

(a) The Safe Drinking Water and Toxic Enforcement Act of 1986 requires the Governor to publish a list of chemicals formally required by state or federal agencies to have testing for carcinogenicity or reproductive toxicity, but that the state's qualified experts have not found to be adequately tested as required (Health and Safety Code 2524

Readers should note a chemical that already has been designated as known to the state to cause cancer or reproductive toxicity is not included in the following listing as requiring additional testing for that particular toxicological endpoint. However, the "data gap" may continue to exist, for purposes of the state or federal agency's requirements. Additional information on the requirements for testing may be obtained from the specific agency identified below.

(b) Chemicals required to be tested by the California Department of Pesticide Regulation.

The Birth Defect Prevention Act of 1984 (SB 950) mandates that the California Department of Pesticide Regulation (CDPR) review chronic toxicology studies supporting the registration of pesticidal active ingredients. Missing or unacceptable studies are identified as data gaps. The studies are conducted to fulfill generic data requirements of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), which is administered by the U.S. Environmental Protection Agency. The studies are reviewed by CDPR according to guidelines and standards promulgated under FIFRA. Thus, older studies may not meet current guidelines.

The existence of a data gap for a compound does not indicate a total lack of information on the carcinogenicity or reproductive toxicity of the compound. In some cases, information exists in the open scientific literature, but SB 950 requires specific additional information. A data gap does not necessarily indicate that an oncogenic or reproductive hazard exists. For the purposes of this list, a data gap is still considered to be present until the study is reviewed and found to be acceptable.

Following is a listing of SB 950 data gaps for oncogenicity, reproduction, and teratology studies for the first 200 pesticidal active ingredients. This list will change as data gaps are filled by additional data or replacement studies.

For purposes of this section, "onc mouse" means oncogenicity in mice, "onc rat" means oncogenicity in rats, "repro" means reproduction, "tera rodent" means teratogenicity in rodents, "tera rabbit" means teratogenicity in rabbits.

Chemical	Testing Needed
Bendiocarb	onc rat, repro, tera rodent
Chloroneb	onc rat, onc mouse, repro, tera rodent, tera rabbit
PCP	repro, onc rat
Petroleum distillates, aromatic	onc rat, onc mouse, repro, tera rodent, tera rabbit

(c) Chemicals required to be tested by the United States Environmental Protection Agency, Office of Toxic Substances.

Under Section 4(a) of the Toxic Substances Control Act, testing of a chemical is required when that chemical may present an unreasonable risk, or is produced in substantial quantities and enters the environment in substantial quantities, or may have significant or substantial human exposure.

For purposes of this section, "tera" means teratogenicity, "tox" means reproductive toxicity, "onc" means oncogenicity.

Chemical	Testing Needed
Alkyl (C12-13) glycidyl ether	tox, tera
t-Amyl methyl ether	tox, tera
Bisphenol A diglycidyl ether	onc, tox
Cyclobutane*	tox, tera
Glycidyl methacrylate*	tera
1,6-Hexamethylene diisocyanate	tox, tera
N-Methylpyrrolidone	onc, tox, tera
Phenol	tox

* The Toxic Substances Control Act Section 4 health effects testing programs for cyclohexane and glycidyl methacrylate have been completed and the U.S. Environmental Protection Agency's review of the testing program data is currently underway.

(d) Chemicals required to be tested by the United States Environmental Protection Agency, Office of Pesticide Programs

The U.S. Environmental Protection Agency (EPA) is responsible for the regulation of pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). FIFRA requires EPA to register pesticides based on data adequate to demonstrate that they will not result in unreasonable adverse effects to people or the environment when used in accordance with their EPA-approved labels.

In 1988, FIFRA was amended to strengthen EPA's pesticide regulatory authority and responsibilities to reregister pesticides registered prior to 1984 to ensure they meet today's stringent scientific and regulatory standards. Reregistration requires registrants to develop up-to-date data bases for each pesticide active ingredient. As part of the reregistration process, modifications may be made to registrations, labels or tolerances to ensure they are protective of human health and the environment. Also, reregistration reviews will identify any pesticides where regulatory action may be necessary to deal with unreasonable risks. EPA has been directed to accelerate the reregistration process so that the entire process is completed by 1997. The 1988 amendments set out a five-phase schedule to accomplish this task with deadlines applying to both pesticide registrants and the EPA. These amendments are requiring a substantial number of new studies to be conducted and old studies to be reformulated for EPA review to ensure they are adequate. EPA may, in the future, request additional data or information to further evaluate any concerns over the safety of pesticide products.

The chemicals listed below are those for which data are unavailable or inadequate to characterize oncogenicity, teratogenicity, or reproductive effects potential. For purposes of this section, "onc" means oncogenicity, "tera" means teratogenicity, and "repro" means reproductive toxicity.

Chemical	Data Requirements
Acrolein	onc, tera
Alkyl imidazolines	tera
Ametryn	repro, tera
4-Aminopyridine	onc, repro, tera
4-T-Amylphenol	onc, repro
Aquashade	onc, repro, tera
Bensulfide	onc, repro, tera
Benzisothiazoline-3-oxc	onc, repro, tera
Brodifacoum	repro
Bromonitrostyrene	tera
Buxan 77	repro
Chlorfuretol methyl	tera
Chlorophacinone	tera
Chloropicrin	onc, repro
Chromated arsenicals	tera
Cyfluthrin	onc
Cypermethrin	onc, repro, tera
DCNA	repro, tera
Dibromodicyanobutane	tera
Diclofop-methyl	onc, tera
Dicrotophos	onc, repro
Dihalodialkylhydantoinis	onc, repro, tera
Dimethipin	onc, repro, tera
Dimethyldithiocarbamate	onc, repro, tera
Disocap and its compounds	tera
Diphacinone and salts	onc, repro, tera
Diphenylamide	onc, tera
Dipropyl isocinchomeronate	repro
Diuron	onc

Chemical	Data Requirements
Dodine	onc, repro, lera
Endothal and salts	onc, repro, lera
Ethofumesate	onc
Ethoxyquin	lera
Fenitron	lera
Fenvalerate	onc, repro, lera
Fluvallinate	repro, lera
Hydroxy-methyldithiocarbamate	lera
Imazalil	onc
Inorganic chlorides	onc, repro, lera
Inorganic sulfites	onc, repro, lera
Iodine-potassium iodide	lera
Iprodione	lera
Irgasan	onc, repro, lera
Lampricide	onc, repro
Magnesium phosphide	onc
Malathion	onc
Maneb	onc, lera
MCPB and salts	lera
Melthioidide and salts	lera
Mepiquat chloride	lera
Metaldehyde	onc, lera
Methoxychlor	onc, repro, lera
Methyl isothiocyanate	lera
Methyl parathion	lera
Methyldithiocarbamate	repro
MCK 264	lera
Molinate	repro
Naphthalene	onc
Naphthaleneacetic acid	onc, repro
Naphthalene salts	lera
Napropamide	repro
Niclosamide	onc, lera
Nicotine and derivatives	onc, lera
Nitrapyrin	onc, lera
4-Nitrophenol	onc, repro, lera
Ocithionone	lera
Oil of Pennyroyal	lera
Ormadine salts	onc, repro, lera
Oxadiazon	repro
Oxyfluorfen	onc
Pebulate	lera
Perfludone	lera
Phenmedipham	onc
Phenol and salts	lera
2-Phenylphenol and salts	onc, lera
Pine oils	lera
Piperonyl butoxide	lera
Poly (hexamethylene biguanide)	onc, repro
Polyethoxylated aliphatic alcohols	onc, repro, lera
Prometon	lera
Propachlor	onc

Chemical	Data Requirements
Propanil	onc, repro
Propiconazole	lera
Propiconazole	onc
Propylene oxide	lera
Pyrazon	onc, repro
Pyrethrin and derivatives	onc, lera
Pyrimidinone	onc, lera
Sethoxydim	onc
Siduron	onc, repro, lera
Sodium fluoride	lera
Sulfometuron-methyl	onc, lera
TBT-containing compounds	onc, lera
TCMB	onc, repro, lera
Temephos	onc, lera
Tetrachlorovisphos	onc
Tetramethrin	onc
Thiabendazole and salts	onc, repro, lera
Thidiazuron	onc, repro, lera
Thiodicarb	lera
Thiophanate-methyl	onc, lera
Thiram	onc
Triadimefon	onc, repro
Triclopyr and salts	onc
Vernolate	onc, repro

Revised: January 1, 1998

History

1. New section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 89, No. 17).
2. Amendment submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 90, No. 2).
3. Amendment submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 17).
4. Editorial correction of subsection (d) (Register 91, No. 31).
5. Editorial correction of printing error (Register 91, No. 43).
6. Editorial correction instituting inadvertently omitted amendment. Submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 93, No. 20).
7. Editorial correction of printing errors (Register 93, No. 45).
8. Amendment of subsection (d) filed 8-1-94. Submitted to OAL for printing only (Register 94, No. 31).
9. Amendment of subsections (b), (c), and (d) filed 12-23-94. Submitted to OAL for printing only (Register 95, No. 1).
10. Amendment submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 95, No. 52).
11. Amendment filed 1-30-97; operative 1-30-97. Submitted to OAL for printing only pursuant to Health and Safety Code section 25249.8 (Register 97, No. 5).
12. Amendment of subsections (b), (c) and (d) filed 2-13-98; operative 2-13-98. Submitted to OAL for printing only pursuant to Health and Safety Code section 25249.8 (Register 98, No. 7).

[The next page is 201.]

Animal bioassay data is admissible and generally indicative of potential effects in humans.

For purposes of this regulation, substances are present occupationally when there is a possibility of exposure either as a result of normal work operations or a reasonably foreseeable emergency resulting from workplace operations. A reasonably foreseeable emergency is one which a reasonable person should anticipate based on usual work conditions, a substance's particular chemical properties (e.g., potential for explosion, fire, reactivity), and the potential for human health hazards. A reasonably foreseeable emergency includes, but is not limited to, spills, fires, explosions, equipment failure, rupture of containers, or failure of control equipment which may or do result in a release of a hazardous substance into the workplace.

(b) Administrative Procedure Followed by the Director for the Development of the Initial List. The Director shall hold a public hearing concerning the initial list. The record will remain open 30 days after the public hearing for additional written comment. Requests to exempt a substance in a particular physical state, volume, or concentration from the provisions of Labor Code sections 6390 to 6399.2 may be made at this time. If no comments in opposition to such a request are made at the public hearing or received during the comment period, or if the Director can find no valid reason why the request should not be considered, it will be incorporated during the Director's preparation of the list.

After the public comment period the Director shall formulate the initial list and send it to the Standards Board for approval. After receipt of the list or a modified list from the Standards Board, the Director will adopt the list and file it with the Office of Administrative Law.

(c) Concentration Requirement. In determining whether the concentration requirement of a substance should be changed pursuant to Labor Code section 6383, the Director shall consider valid and substantial evidence. Valid and substantial evidence shall consist of clinical evidence or toxicological studies including, but not limited to, animal bioassay tests, short-term in vitro tests, and human epidemiological studies. Upon adoption, a regulation indicating the concentration requirement for a substance shall consist of a footnote on the list.

(d) Procedures for Modifying the List. The Director will consider petitions from any member of the public to modify the list or the concentration requirements, pursuant to the procedures specified in Government Code section 11347.1. With petitions to modify the list, the Director shall make any necessary deletions or additions in accordance with the procedures herein set forth for establishing the list. The Director will review the existing list at least every two years and shall make any necessary additions or deletions in accordance with the procedures herein set forth for establishing the list.

(e) Criteria for Modifying the List. Petitions to add or remove a substance on the list, modify the concentration level of a substance, or reference when a particular substance is present in a physical state which does not pose any human health risk must be accompanied with relevant and sufficient scientific data which may include, but is not limited to, short-term tests, animal studies, human epidemiological studies, and clinical data. If the applicant does not include the complete content of a referenced study or other document, there must be sufficient information to permit the Director to identify and obtain the referenced material. The petitioner bears the burden of justifying any proposed modification of the list.

The Director shall consider all evidence submitted, including negative and positive evidence. All evidence must be based on properly designed studies for toxicological endpoints indicating adverse health effects in humans, e.g., carcinogenicity, mutagenicity, neurotoxicity, organ damage/effects.

For purposes of this regulation, animal data is admissible and generally indicative of potential effects in humans.

The absence of a particular category of studies shall not be used to prove the absence of risk.

Inherent insensitivities, negative results must be reevaluated in light of the limits of sensitivity of each study, its test design, and the protocol followed.

In evaluating different results among proper tests, as a general rule, positive results shall be given more weight than negative results for purposes of including a substance on the list or modifying the list in reference to concentration, physical state or volume, so that appropriate information may be provided regarding those positive results. In each case, the relative sensitivity of each test shall be a factor in resolving such conflicts.

NOTE: Authority cited: Section 6380, Labor Code. Reference: Sections 6361, 6380, 6380.5, 6382 and 6383, Labor Code.

HISTORY

1. New article 5 (section 337) filed 11-5-81; effective thirtieth day thereafter (Register 81, No. 45).
2. Amendment of subsection (d) filed 1-15-87; effective upon filing pursuant to Government Code section 11346.2(d) (Register 87, No. 3).
3. Editorial correction of HISTORY 2. (Register 91, No. 19).

§ 338. Special Procedures for Supplementary Enforcement of State Plan Requirements Concerning Proposition 65.

(a) This section sets forth special procedures necessary to comply with the terms of the approval by the United States Department of Labor of the California Hazard Communication Standard, pertaining to the incorporation of the occupational applications of the California Safe Drinking and Toxic Enforcement Act (hereinafter Proposition 65), as set forth in 62 Federal Register 31159 (June 6, 1997). This approval specifically placed certain conditions on the enforcement of Proposition 65 with regard to occupational exposures, including that it does not apply to the conduct of manufacturers occurring outside the State of California. A person proceeding "in the public interest" pursuant to Health and Safety Code § 25249.7(d) (hereinafter "Supplemental Enforcer") or any district attorney or city attorney or prosecutor pursuant to Health and Safety Code § 25249.7(c) (hereinafter "Public Prosecutor"), who alleges the existence of violations of Proposition 65, with respect to occupational exposures as incorporated into the California Hazard Communication Standard (hereinafter "Supplemental Enforcement Matter"), shall comply with the requirements of this section. No Supplemental Enforcement Matter shall proceed except in compliance with the requirements of this section.

(b) 22 CCR § 12903, setting forth specific requirements for the content and manner of service of sixty-day notices under Proposition 65, in effect on April 22, 1997, is adopted and incorporated by reference. In addition, any sixty-day notice concerning a Supplemental Enforcement Matter shall include the following statement:

"This notice alleges the violation of Proposition 65 with respect to occupational exposures governed by the California State Plan for Occupational Safety and Health. The State Plan incorporates the provisions of Proposition 65, as approved by Federal OSHA on June 6, 1997. This approval specifically placed certain conditions with regard to occupational exposures on Proposition 65, including that it does not apply to the conduct of manufacturers occurring outside the State of California. This approval also provides that an employer may use the means of compliance with the general hazard communication requirements to comply with Proposition 65. It also requires that supplemental enforcement is subject to the supervision of the California Occupational Safety and Health Administration. Accordingly, any settlement, civil complaint, or subpoena orders in this matter must be submitted to the Attorney General.

(c) A Supplemental Enforcer or Public Prosecutor who commences a Supplemental Enforcement Matter shall serve a file-endorsed copy of the complaint upon the Attorney General within ten days after filing with the Court.

(d) A Supplemental Enforcer or Public Prosecutor shall serve upon the Attorney General a copy of any motion, or opposition to a motion,

CERTIFICATE OF SERVICE

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 the mailing occurred. My business address is 950 South Coast Drive, Suite 220, Costa Mesa, California 92626.

I SERVED THE FOLLOWING:

- 1.) Sixty Day Notice of Intent to Sue;
- 2.) Certificate of Merit
- 3.)
- 4.) Supporting Documents (sent only to AG)

by sending via US Mail to the person whose name and address and facsimile number is shown below:

Date of Mailing: March 11, 2009
Place of Mailing: Costa Mesa, California

NAME AND ADDRESS OF EACH PERSON TO WHOM DOCUMENTS WERE MAILED:

Harrison Pollock
California Attorney General
Office of Proposition 65 Enforcement
1515 Clay Street, 20th Floor, P.O. Box 70550
Oakland, CA 94612-0550

Counsel for Southern California Edison:

James L. Arnone, Esq.
Latham & Watkins
633 West Fifth Street, Ste. 4000
Los Angeles, CA 90071-2007

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

Dated: March 11, 2009

