OVERVIEW OF CALIFORNIA’S PROPOSITION 65 WARNING REQUIREMENTS

What is California State Proposition 65?
Proposition 65 is a law in California, also known as the Safe Drinking Water and Toxic Enforcement Act of 1986. Proposition 65 requires the Governor to publish, at least annually, a list of substances known to the State to cause cancer or reproductive harm. Once a substance or chemical is listed, businesses have 12 months to comply with the warning requirements.

According to California Health and Safety Code Section 25249.6, as of December 18, 2010, no person in the course of doing business shall knowingly and intentionally expose an individual to a product that contains a chemical known to the State of California to cause cancer, birth defects or other reproductive harm without first providing a clear and reasonable warning. These warning requirements apply to any person employing ten or more employees who manufactures, produces, sells, distributes, or otherwise transfers a product that contains a chemical known to the State of California to cause cancer, birth defects or other reproductive harm into the stream of commerce in California.

For more information on Proposition 65, go to http://www.oehha.ca.gov/prop65.html.

Why Are We Concerned About California State Proposition 65?
The State of California requires anyone who manufactures, produces, sells, distributes or otherwise transfers a product that contains a chemical known to the State of California to cause cancer, birth defects or other reproductive harm into the stream of commerce in California to comply with the Proposition 65 warning requirements. We want our customers to know what we are doing to comply with the law.

We also want to inform our customers of these warning requirements, so they, and their customers, including retailers, will understand what is expected when such products are introduced into the stream of commerce in California, so they, too, may comply.

Objective of Proposition 65 is To Warn the End User.
The objective of Proposition 65’s warning requirements is to see that the warnings are transmitted, to the extent practicable, to the end user of the product. If, for example, the end user is purchasing products from a retail outlet, the suggested warning sign should be posted at the retail outlet where such products being offered for sale are displayed, or at the point of sale (i.e., cash register or order counter), or both, so that it is likely to be seen and read by consumers purchasing such products.

What are We Doing To Comply With Proposition 65?
We have developed a Proposition 65 warning program that includes:

1. A Proposition 65 informational packet for our customers consisting of:
   a) This overview of the Proposition 65 warning requirements.
   b) Printable examples of a warning sign, which reads: “WARNING: Some of the products sold in this store contain/may contain chemicals known to the State of California to cause cancer, birth defects or other reproductive harm.” California Health and Safety Code Section 25249.6
c) Sample letter for our customers to send to their customers who are suppliers or wholesalers or resellers.

d) Sample letter for our customers to send to their customers who are retailers.

2. Confirming that each customer will, to the extent Proposition 65 applies, comply with the California Proposition 65 warning requirements.

Important Information:

1. What Should The Warning Say? We suggest a warning that reads: “WARNING: Some products sold in this store contain/may contain chemicals known to the State of California to cause cancer, birth defects or other reproductive harm.” California Health and Safety Code Section 25249.6

2. What If You Are a Retailer? If you are a retailer who sells to end users, and if you have not done so already, you should make sure that you post the suggested warning sign at your retail outlet where the products being offered for sale are displayed, or at the point of sale (i.e., cash register or order counter), or both, so that it is likely to be seen and read by consumers purchasing the products.

3. What If You Are a Distributor to Suppliers or Wholesalers? If you are a distributor who sells to other distributors or suppliers products that may end up in California, and if you have not done so already, you must pass along all of the necessary compliance information, instructions, and materials to your customers, and advise them of their responsibility to make sure the retailers have, or have access to, the necessary compliance information, instructions, and materials. This includes passing on instructions that the retailer should post the suggested warning sign at the retail outlet where the products being offered for sale are displayed, or at the point of sale (i.e., cash register or order counter), or both, so that it is likely to be seen and read by consumers purchasing the products.

4. What If You Sell Directly to Retailers? If you, or your customers, sell products directly to retailers, and if you have not done so already, you and your customers have the responsibility to make sure the retailers have, or have access to, the necessary compliance information, instructions, and materials. You should instruct the retailer that the suggested warning sign must be posted at the retail outlet where the products being offered for sale are displayed, or at the point of sale (i.e., cash register or order counter), or both, so that it is likely to be seen and read by consumers purchasing the products.

5. What If You Make Phone or Internet Sales? If you or your customers sell or distribute or transfer products to the end user via phone or internet orders, you need to communicate the suggested warning to that end user. You should consider including the suggested warning with or in your invoice, in your confirmation email to the end user, or in some other form that is likely to be seen and read by the end user of the products.

6. Where Do You Get Warning Signs? You, your retailer customers, and any distributors, resellers or suppliers with whom you do business, can print the warning sign included with this packet or available from our website.

Thank you for your cooperation.