

FAXED

COPY

MATTHEW C. MACLEAR (SBN 209228)
ANTHONY M. BARNES (SBN 199048)
AQUA TERRA AERIS LAW GROUP
7425 Fairmount Ave.
El Cerrito, CA 94530
Ph: 415-568-5200
Email: mcm@atalawgroup.com

Attorneys for Plaintiff
ENVIRONMENTAL RESEARCH CENTER, INC.

ENDORSED
FILED
ALAMEDA COUNTY

DEC 31 2015

CLERK OF THE SUPERIOR COURT
By D. OLIVER

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ALAMEDA

ENVIRONMENTAL RESEARCH CENTER,)
INC., a non-profit California corporation,)
Plaintiff,)
v.)
REDD REMEDIES, INC., an Illinois)
corporation, and DOES 1 – 25,)
Defendants.)

Case No. RB 15798489
**COMPLAINT FOR PERMANENT
INJUNCTION, CIVIL PENALTIES AND
OTHER RELIEF**
Health & Safety Code §25249.5, *et seq.*

Plaintiff Environmental Research Center, Inc. (“PLAINTIFF” or “ERC”) brings this
action in the interests of the general public and, on information and belief, hereby alleges:

INTRODUCTION

1. This action seeks to remedy the continuing failure of Defendants REDD REMEDIES,
INC. (“REDD REMEDIES”) and DOES 1-25 (hereinafter individually referred to as
“DEFENDANT” or collectively as “DEFENDANTS”) to warn consumers in California that they
are being exposed to lead, a substance known to the State of California to cause cancer, birth
defects, and other reproductive harm. According to the Safe Drinking Water and Toxics
Enforcement Act of 1986, Health and Safety Code (“H&S Code”) section 25249.5 (also known
as and referred to hereinafter as “Proposition 65”), businesses must provide persons with a “clear
and reasonable warning” before exposing individuals to chemicals known to the state to cause

1 cancer or reproductive harm. DEFENDANTS manufacture, package, distribute, market, and/or
2 sell in California certain products containing lead (the “SUBJECT PRODUCTS”):

- 3 • Redd Remedies SinuZyme
- 4 • Redd Remedies Brain Awakening

5 2. Lead (hereinafter, the “LISTED CHEMICAL”) is a substance known to the State of
6 California to cause cancer, birth defects, and other reproductive harm.

7 3. The use and/or handling of the SUBJECT PRODUCTS causes exposures to the
8 LISTED CHEMICAL at levels requiring a “clear and reasonable warning” under Proposition
9 65. DEFENDANTS exposed consumers, users and handlers to the LISTED CHEMICAL and
10 have failed to provide the health hazard warnings required by Proposition 65.

11 4. DEFENDANTS’ continued manufacturing, packaging, distributing, marketing
12 and/or sales of the SUBJECT PRODUCTS without the required health hazard warnings, causes
13 individuals to be involuntarily, unknowingly and unwittingly exposed to levels of the LISTED
14 CHEMICAL that violate Proposition 65.

15 **PARTIES**

16 5. PLAINTIFF is a non-profit corporation organized under California Law. ERC is
17 dedicated to, among other causes, reducing the use and misuse of hazardous and toxic
18 substances, consumer protection, worker safety, and corporate responsibility.

19 6. ERC is a person within the meaning of H&S Code §25249.11 and brings this
20 enforcement action in the public interest pursuant to H&S Code §25249.7(d). H&S Code §
21 25249.7 (d) specifies that actions to enforce Proposition 65 may be brought by a person in the
22 public interest, provided certain notice requirements and no other public prosecutor is diligently
23 prosecuting an action for the same violation(s).

24 7. REDD REMEDIES is now, and was at all times relevant herein, a corporation
25 organized under the laws of Illinois and is doing business within the meaning of H&S Code
26 §25249.11.

27 8. DEFENDANTS own, administer, direct, control and/or operate facilities and/or
28 agents, distributors sellers, marketers or other retail operations who place its SUBJECT

1 PRODUCTS into the stream of commerce in California (including but not limited to Alameda
2 County) under the brand name REDD REMEDIES® and other brand names, which contain the
3 LISTED CHEMICAL without first giving clear and reasonable warnings.

4 9. DEFENDANTS, separately and each of them, are or were, at all times relevant to the
5 claims in this Complaint and continuing through the present, legally responsible for compliance
6 with the provisions of Proposition 65. Whenever an allegation regarding any act of a
7 DEFENDANT is made herein, such allegation shall be deemed to mean that DEFENDANT, or
8 its agent, officer, director, manager, supervisor or employee did or so authorized such acts while
9 engaged in the affairs of DEFENDANT’s business operations and/or while acting within the
10 course and scope of their employment or while conducting business for DEFENDANT(S) for a
11 commercial purpose.

12 10. In this Complaint, when reference is made to any act of a DEFENDANT, such
13 allegation shall mean that the owners, officers, directors, agents, employees, contractors, or
14 representatives of DEFENDANT acted or authorized such actions, and/or negligently failed and
15 omitted to act or adequately and properly supervise, control or direct its employees and agents
16 while engaged in the management, direction, operation or control of the affairs of the business
17 organization. Whenever reference is made to any act of any DEFENDANT, such allegation shall
18 be deemed to mean the act of each DEFENDANT acting individually, jointly and severally as
19 defined by Civil Code Section 1430 *et seq.*

20 11. PLAINTIFF does not know the true names, capacities and liabilities of Defendants
21 DOES Nos. 1-25, inclusive, and therefore sues them under fictitious names. PLAINTIFF will
22 amend this Complaint to allege the true name and capacities of the DOE Defendants upon being
23 ascertained. Each of these Defendants was in some way legally responsible for the acts,
24 omissions and/or violations alleged herein.

25 **JURISDICTION AND VENUE**

26 12. This Court has jurisdiction over this action pursuant to California Constitution Article
27 VI, Section 10, which grants the Superior Court “original jurisdiction in all causes except those
28 given by statute to other trial courts.” The statute under which this action is brought does not

1 specify any other court with jurisdiction.

2 13. This Court has jurisdiction over DEFENDANTS because they are business entities
3 that do sufficient business, have sufficient minimum contacts in California or otherwise
4 intentionally avail themselves of the California market, through the sale, marketing and use of
5 their SUBJECT PRODUCTS in California, to render the exercise of jurisdiction over them by
6 the California courts consistent with traditional notions of fair play and substantial justice.

7 14. Venue in this action is proper in the Alameda County Superior Court because the
8 cause, or part thereof, arises in the County of Alameda since DEFENDANTS' products are
9 marketed, offered for sale, sold, used, and/or consumed in this county.

10 **STATUTORY BACKGROUND**

11 15. The People of the State of California declared in Proposition 65 their right "[t]o be
12 informed about exposures to chemicals that cause cancer, birth defects, or other reproductive
13 harm." (Section 1(b) of Initiative Measure, Proposition 65).

14 16. To effect this goal, Proposition 65 requires that individuals be provided with a "clear
15 and reasonable warning" before being exposed to substances listed by the State of California as
16 causing cancer or reproductive toxicity. H&S Code §25249.6 states, in pertinent part:

17 No person in the course of doing business shall knowingly and intentionally
18 expose any individual to a chemical known to the state to cause cancer or
19 reproductive toxicity without first giving clear and reasonable warning to such
individual....

20 17. An exposure to a chemical in a consumer product is one "which results from a
21 person's acquisition, purchase, storage, consumption, or other reasonably foreseeable use of a
22 consumer good, or any exposure that results from receiving a consumer service." (Cal. Code
23 Regs., tit. 22, § 12601, subd. (b).)

24 18. Proposition 65 provides that any "person who violates or threatens to violate" the
25 statute may be enjoined in a court of competent jurisdiction. (H&S Code §25249.7). The phrase
26 "threaten to violate" is defined to mean creating "a condition in which there is a substantial
27 probability that a violation will occur" (H&S Code §25249.11(e)). Violators are liable for civil
28 penalties of up to \$2,500 per day for each violation of the Act. (H&S Code §25249.7.)

1 **FACTUAL BACKGROUND**

2 19. On February 27, 1987, the State of California officially listed lead as a chemical
3 known to cause reproductive toxicity. Lead became subject to the warning requirement one year
4 later and was therefore subject to the “clear and reasonable” warning requirements of Proposition
5 65 beginning on February 27, 1988. (27 California Code of Regulations (“CCR”) §25000, *et*
6 *seq.*; H&S Code §25249.5, *et seq.*).

7 20. On October 1, 1992, the State of California officially listed lead and lead compounds
8 as chemicals known to cause cancer. Lead and lead compounds became subject to the warning
9 requirement one year later and were therefore subject to the "clear and reasonable" warning
10 requirements of Proposition 65 beginning on October 1, 1993. (27 CCR § 25000, *et seq.*; H&S
11 Code §25249.6, *et seq.*). Due to the high toxicity of lead, the maximum allowable dose level for
12 lead is 0.5 ug/day (micrograms a day) for reproductive toxicity and the no significant risk level
13 for carcinogens is 15ug/day (oral).

14 21. To test DEFENDANTS’ SUBJECT PRODUCTS for lead, PLAINTIFF hired a well-
15 respected and accredited testing laboratory that designed the testing protocol used and approved
16 by the California Attorney General years ago for testing heavy metals. The results of testing
17 undertaken by PLAINTIFF of DEFENDANTS’ SUBJECT PRODUCTS show that the
18 SUBJECT PRODUCTS tested were in violation of the 0.5 ug/day and/or 15 ug/day “safe harbor”
19 daily dose limits set forth in Proposition 65’s regulations. Very significant is the fact that people
20 are being exposed to lead through ingestion as opposed to other not as harmful methods of
21 exposure such as dermal exposure. Ingestion of lead produces much higher exposure levels and
22 health risks than does dermal exposure to this chemical.

23 22. At all times relevant to this action, DEFENDANTS, therefore, have knowingly and
24 intentionally exposed the users, consumers and/or handlers of the SUBJECT PRODUCTS to the
25 LISTED CHEMICAL without first giving a clear and reasonable warning to such individuals.

26 23. The SUBJECT PRODUCTS have allegedly been sold by DEFENDANTS for use
27 in California since at least June 5, 2012. The SUBJECT PRODUCTS continue to be distributed
28 and sold in California without the requisite warning information.

1 24. On June 5, 2015, ERC served DEFENDANTS and each of the appropriate public
2 enforcement agencies with a document entitled “Notice of Violations of California Health &
3 Safety Code Section 25249.5” that provided DEFENDANTS and the public enforcement
4 agencies with notice that DEFENDANTS were in violation of Proposition 65 for failing to warn
5 purchasers and individuals using the SUBJECT PRODUCTS that the use of the SUBJECT
6 PRODUCTS exposes them to lead, a chemical known to the State of California to cause cancer
7 and/or reproductive toxicity (“Prop. 65 Notice”). A true and correct copy of the **60-Day Notice**
8 **is attached hereto as Exhibit A**, is hereby incorporated by reference, and is available on the
9 Attorney General’s website located at <http://oag.ca.gov/prop65>.

10 25. As a proximate result of acts by DEFENDANTS, as persons in the course of doing
11 business within the meaning of Health & Safety Code §25249.11, individuals throughout the
12 State of California, including in the County of Alameda have been exposed to the LISTED
13 CHEMICAL without a clear and reasonable warning on the SUBJECT PRODUCTS. The
14 individuals subject to the violative exposures include normal and foreseeable users of the
15 SUBJECT PRODUCTS, as well as all other persons exposed to the SUBJECT PRODUCTS.

16 26. On June 5, 2015, Plaintiff sent a 60-Day Notice of Proposition 65 violations
17 (“NOTICE”) to the requisite public enforcement agencies, and to REDD REMEDIES. The
18 NOTICE was issued pursuant to, and in compliance with, the requirements of H&S Code
19 §25249.7(d) and the statute's implementing regulations regarding the notice of the violations to
20 be given to certain public enforcement agencies and to the violator. The NOTICE included, *inter*
21 *alia*, the following information: the name, address, and telephone number of the noticing
22 individual; the name of the alleged violator; the statute violated; the approximate time period
23 during which violations occurred; and descriptions of the violations including the chemicals
24 involved, the routes of toxic exposure, and the specific product or type of product causing the
25 violations.

26 27. REDD REMEDIES was provided copies of the NOTICE and the document entitled
27 "The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary,"
28 which is also known as Appendix A to Title 27 of CCR §25903, via Certified Mail.

1 34. Continuing commission by DEFENDANTS of the acts alleged above will irreparably
2 harm the citizens of the State of California, for which harm they have no plain, speedy, or
3 adequate remedy at law.

4 35. In the absence of preliminary and then permanent injunctive relief, DEFENDANTS
5 will continue to create a substantial risk of irreparable injury by continuing to cause consumers
6 to be involuntarily, unknowingly and unwittingly exposed to the LISTED CHEMICAL through
7 the use, consumption and/or handling of the SUBJECT PRODUCTS.

8 **SECOND CAUSE OF ACTION**

9 **(Civil Penalties for Violations of Health and Safety Code § 25249.5, *et seq.* concerning the**
10 **SUBJECT PRODUCTS described in the June 5, 2015, Prop. 65 Notice of Violation)**
11 **Against DEFENDANTS**

12 36. PLAINTIFF re-alleges and incorporates by reference Paragraphs 1 through 35,
13 inclusive, as if specifically set forth herein.

14 37. By committing the acts alleged in this Complaint, DEFENDANTS at all times relevant
15 to this action, and continuing through the present, have violated H&S Code §25249.6 by, in the
16 course of doing business, knowingly and intentionally exposing individuals in California to
17 chemicals known to the State of California to cause cancer or reproductive toxicity without first
18 giving clear and reasonable warnings to such persons who use, consume or handle the SUBJECT
19 PRODUCTS containing the LISTED CHEMICAL, pursuant to H&S Code §§ 25249.6 and
20 25249.11(f).

21 38. By the above-described acts, DEFENDANTS are liable, pursuant to H&S Code
22 §25249.7(b), for a civil penalty of up to \$2,500 per day per violation for each unlawful exposure
23 to the LISTED CHEMICAL from the SUBJECT PRODUCTS, in an amount in excess of \$1
24 million.

25 **THE NEED FOR INJUNCTIVE RELIEF**

26 39. PLAINTIFF re-alleges and incorporates by this reference Paragraphs 1 through 38,
27 as if set forth below.

28 40. By committing the acts alleged in this Complaint, DEFENDANTS have caused
irreparable harm for which there is no plain, speedy or adequate remedy at law. In the absence

1 of equitable relief, DEFENDANTS will continue to create a substantial risk of irreparable
2 injury by continuing to cause consumers to be involuntarily and unwittingly exposed to the
3 LISTED CHEMICAL through the use and/or handling of the SUBJECT PRODUCTS.

4 **PRAYER FOR RELIEF**

5 Wherefore, PLAINTIFF prays for the following relief:

6 A. A preliminary and permanent injunction, pursuant to H&S Code §25249.7(b),
7 enjoining DEFENDANTS, their agents, employees, assigns and all persons acting in concert or
8 participating with DEFENDANTS, from manufacturing, distributing, marketing or selling the
9 SUBJECT PRODUCTS in California without first providing a clear and reasonable warning,
10 within the meaning of Proposition 65, that the users and/or handlers of the SUBJECT
11 PRODUCTS are exposed to the LISTED CHEMICAL;

12 B. An injunctive order, pursuant to H&S Code §25249.7(b), compelling
13 DEFENDANTS to identify and locate each individual who has purchased the SUBJECT
14 PRODUCTS since June 5, 2012, and to provide a warning to such person that the use of the
15 SUBJECT PRODUCTS will expose the user to chemicals known to cause cancer, birth defects,
16 and other reproductive harm;

17 C. An assessment of civil penalties pursuant to Health & Safety Code §25249.7(b),
18 against DEFENDANTS in the amount of \$2,500 per day for each violation of Proposition 65, in
19 an amount in excess of \$1 million, according to proof;

20 D. An award to PLAINTIFF of its reasonable attorney's fees and costs of suit
21 pursuant to California Code of Civil Procedure §§ 1032 *et. seq* and 1021.5, as PLAINTIFF shall
22 specify in further applications to the Court; and,

23 E. Such other and further relief as may be just and proper.

24 DATED: December 31, 2015

AQUA TERRA AERIS LAW GROUP

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27 Matthew C. Maclear
28 Anthony M. Barnes
Attorneys for Plaintiff
Environmental Research Center, Inc.

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EXHIBIT A

Aqua Terra Aeris Law Group
Matthew C. Maclear, Esq.
7425 Fairmount Ave. El Cerrito, CA 94530
(415) 568-5200
mcm@atalawgroup.com

June 5, 2015

**NOTICE OF VIOLATION OF
CALIFORNIA HEALTH & SAFETY CODE SECTION 25249.5 ET SEQ.
(PROPOSITION 65)**

Dear Alleged Violator and the Appropriate Public Enforcement Agencies:

I represent Environmental Research Center, Inc. ("ERC"), 3111 Camino Del Rio North, Suite 400, San Diego, CA 92108; Tel. (619) 500-3090. ERC's Executive Director is Chris Heptinstall. ERC is a California non-profit corporation dedicated to, among other causes, helping safeguard the public from health hazards by bringing about a reduction in the use and misuse of hazardous and toxic chemicals, facilitating a safe environment for consumers and employees, and encouraging corporate responsibility.

ERC has identified violations of California's Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65"), which is codified at California Health & Safety Code §25249.5 *et seq.*, with respect to the products identified below. These violations have occurred and continue to occur because the alleged Violator identified below failed to provide required clear and reasonable warnings with these products. This letter serves as a notice of these violations to the alleged Violator and the appropriate public enforcement agencies. Pursuant to Health and Safety Code Section 25249.7(d), ERC intends to file a private enforcement action in the public interest 60 days after effective service of this notice unless the public enforcement agencies have commenced and are diligently prosecuting an action to rectify these violations.

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

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

Redd Remedies, Inc.

Consumer Products and Listed Chemical. The products that are the subject of this notice and the chemical in those products identified as exceeding allowable levels are:

Redd Remedies SinuZyme – Lead
Redd Remedies Brain Awakening – Lead

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

It should be noted that ERC may continue to investigate other products that may reveal further violations and result in subsequent notices of violations.

Route of Exposure. The consumer exposures that are the subject of this notice result from the purchase, acquisition, handling and recommended use of these products. Consequently, the primary route of exposure to this chemical has been and continues to be through ingestion, but may have also occurred and may continue to occur through inhalation and/or dermal contact.

Approximate Time Period of Violations. Ongoing violations have occurred every day since at least June 5, 2012, as well as every day since the products were introduced into the California marketplace, and will continue every day until clear and reasonable warnings are provided to product purchasers and users or until this known toxic chemical is either removed from or reduced to allowable levels in the products. Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to the identified chemical. The method of warning should be a warning that appears on the product label. The Violator violated Proposition 65 because it failed to provide persons handling and/or using these products with appropriate warnings that they are being exposed to this chemical.

Consistent with the public interest goals of Proposition 65 and a desire to have these ongoing violations of California law quickly rectified, ERC is interested in seeking a constructive resolution of this matter that includes an enforceable written agreement by the Violator to: (1) reformulate the identified products so as to eliminate further exposures to the identified chemical, or provide appropriate warnings on the labels of these products; (2) pay an appropriate civil penalty; and (3) provide clear and reasonable warnings compliant with Proposition 65 to all persons located in California who purchased the above products in the last three years. Such a resolution will prevent further unwarned consumer exposures to the identified chemical, as well as an expensive and time consuming litigation.

ERC has retained me as legal counsel in connection with this matter. **Please direct all communications regarding this Notice of Violation to my attention at the law office address and telephone number indicated on the letterhead.**

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew Maclear". The signature is written in a cursive style with a large initial "M".

Matthew Maclear

Attachments

Certificate of Merit

Certificate of Service

OEHHA Summary (to Redd Remedies, Inc. and its Registered Agent for Service of Process only)

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

CERTIFICATE OF MERIT

Re: Environmental Research Center, Inc.'s Notice of Proposition 65 Violations by Redd Remedies, Inc.

I, Matthew Maclear, declare:

1. This Certificate of Merit accompanies the attached 60-day notice in which it is alleged that the party identified in the notice violated California Health & 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 have reviewed facts, studies, or other data regarding the exposure to the listed chemical that is the subject of the notice.

4. Based on the information obtained through those consultants, and on other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for the private action" means that 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 will be able to establish any of the affirmative defenses set forth in the statute.

5. Along with the copy of this Certificate of Merit served on the Attorney General is attached additional factual information sufficient to establish the basis for this certificate, including the information identified in California Health & Safety Code §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: June 5, 2015

Matthew Maclear

CERTIFICATE OF SERVICE

I, the undersigned, declare under penalty of perjury under the laws of the State of California that the following is true and correct:

I am a citizen of the United States, over the age of 18 years of age, and am not a party to the within entitled action. My business address is 306 Joy Street, Fort Oglethorpe, Georgia 30742. I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at Fort Oglethorpe, Georgia.

On June 5, 2015, I served the following documents: **NOTICE OF VIOLATION OF CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT; "THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY"** on the following parties by placing a true and correct copy thereof in a sealed envelope, addressed to the party listed below and depositing it at a U.S. Postal Service Office with the postage fully prepaid for delivery by Certified Mail:

Current President or CEO
Redd Remedies, Inc.
211 South Quincy Avenue
Bradley, IL 60915

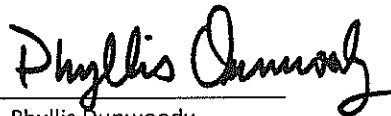
David M. Jaffe
(Redd Remedies, Inc.'s Registered Agent for Service of Process)
200 East Court Street, Suite 212
Kanakee, IL 60901

On June 5, 2015, I verified the following documents **NOTICE OF VIOLATIONS, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT; ADDITIONAL SUPPORTING INFORMATION FOR CERTIFICATE OF MERIT AS REQUIRED BY CALIFORNIA HEALTH & SAFETY CODE §25249.7(d)(1)** were served on the following party when a true and correct copy thereof was uploaded on the California Attorney General's website, which can be accessed at <https://oag.ca.gov/prop65/add-60-day-notice> :

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

On June 5, 2015, I served the following documents: **NOTICE OF VIOLATION, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT** on each of the parties on the Service List attached hereto by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties on the Service List attached hereto, and depositing it at a U.S. Postal Service Office with the postage fully prepaid for delivery by Priority Mail.

Executed on June 5, 2015, in Fort Oglethorpe, Georgia.



Phyllis Dunwoody

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

June 5, 2015

Page 5

Service List

District Attorney, Alameda County
1225 Fallon Street, Suite 900
Oakland, CA 94612

District Attorney, Los Angeles County
210 West Temple Street, Suite 18000
Los Angeles, CA 90012

District Attorney, San Diego County
330 West Broadway, Suite 1300
San Diego, CA 92101

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

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

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

District Attorney, San Francisco County
850 Bryant Street, Suite 322
San Francisco, CA 94103

District Attorney, Ventura County
800 South Victoria Ave, Suite 314
Ventura, CA 93009

District Attorney, Amador County
708 Court Street
Jackson, CA 95642

District Attorney, Marin County
3501 Civic Center Drive, Room 130
San Rafael, CA 94903

District Attorney, San Joaquin County
222 E. Weber Ave. Rm. 202
Stockton, CA 95202

District Attorney, Yolo County
301 2nd Street
Woodland, CA 95695

District Attorney, Butte County
25 County Center Drive, Suite 245
Oroville, CA 95965

District Attorney, Mariposa County
Post Office Box 730
Mariposa, CA 95338

District Attorney, San Luis Obispo County
1035 Palm St, Room 450
San Luis Obispo, CA 93408

District Attorney, Yuba County
215 Fifth Street, Suite 152
Marysville, CA 95901

District Attorney, Calaveras County
891 Mountain Ranch Road
San Andreas, CA 95249

District Attorney, Mendocino County
Post Office Box 1000
Ukiah, CA 95482

District Attorney, San Mateo County
400 County Ctr., 3rd Floor
Redwood City, CA 94063

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

District Attorney, Colusa County
346 Fifth Street Suite 101
Colusa, CA 95932

District Attorney, Merced County
550 W. Main Street
Merced, CA 95340

District Attorney, Santa Barbara County
1112 Santa Barbara Street
Santa Barbara, CA 93101

San Diego City Attorney's Office
1200 3rd Avenue, Ste 1620
San Diego, CA 92101

District Attorney, Contra Costa County
900 Ward Street
Martinez, CA 94553

District Attorney, Modoc County
204 S Court Street, Room 202
Alturas, CA 96101-4020

District Attorney, Santa Clara County
70 West Hedding Street
San Jose, CA 95110

San Francisco, City Attorney
City Hall, Room 234
1 Dr Carlton B Goodlett PL
San Francisco, CA 94102

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

District Attorney, Mono County
Post Office Box 617
Bridgeport, CA 93517

District Attorney, Santa Cruz County
701 Ocean Street, Room 200
Santa Cruz, CA 95060

San Jose City Attorney's Office
200 East Santa Clara Street,
16th Floor
San Jose, CA 95113

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

District Attorney, Monterey County
Post Office Box 1131
Salinas, CA 93902

District Attorney, Shasta County
1355 West Street
Redding, CA 96001

District Attorney, Fresno County
2220 Tulare Street, Suite 1000
Fresno, CA 93721

District Attorney, Napa County
931 Parkway Mall
Napa, CA 94559

District Attorney, Sierra County
PO Box 457
Downieville, CA 95936

District Attorney, Glenn County
Post Office Box 430
Willows, CA 95988

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

District Attorney, Siskiyou County
Post Office Box 986
Yreka, CA 96097

District Attorney, Humboldt County
825 5th Street 4th Floor
Eureka, CA 95501

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

District Attorney, Solano County
675 Texas Street, Ste 4500
Fairfield, CA 94533

District Attorney, Imperial County
940 West Main Street, Ste 102
El Centro, CA 92243

District Attorney, Placer County
10810 Justice Center Drive, Ste 240
Roseville, CA 95678

District Attorney, Sonoma County
600 Administration Drive,
Room 212J
Santa Rosa, CA 95403

District Attorney, Inyo County
230 W. Line Street
Bishop, CA 93514

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

District Attorney, Stanislaus County
832 12th Street, Ste 300
Modesto, CA 95354

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

District Attorney, Riverside County
3960 Orange Street
Riverside, CA 92501

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

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

District Attorney, Sacramento County
901 "G" Street
Sacramento, CA 95814

District Attorney, Tehama County
Post Office Box 519
Red Bluff, CA 96080

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

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

District Attorney, Trinity County
Post Office Box 310
Weaverville, CA 96093

District Attorney, Lassen County
220 South Lassen Street, Ste. 8
Susanville, CA 96130

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

District Attorney, Tulare County
221 S. Mooney Blvd., Room 224
Visalia, CA 93291

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's 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.

Proposition 65 appears in California law as Health and Safety Code Sections 25249.5 through 25249.13. The statute is available online at: <http://oehha.ca.gov/prop65/law/P65law72003.html>. Regulations that provide more specific guidance on compliance, and that specify procedures to be followed by the State in carrying out certain aspects of the law, are found in Title 27 of the California Code of Regulations, sections 25102 through 27001.¹ These implementing regulations are available online at: <http://oehha.ca.gov/prop65/law/P65Regs.html>.

WHAT DOES PROPOSITION 65 REQUIRE?

The "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 and/or reproductive toxicity. This means that 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

¹ All further regulatory references are to sections of Title 27 of the California Code of Regulations unless otherwise indicated. The statute, regulations and relevant case law are available on the OEHHA website at: <http://www.oehha.ca.gov/prop65/law/index.html>.

damage to female or male reproductive systems or to the developing fetus. This list must be updated at least once a year. The current Proposition 65 list of chemicals is available on the OEHHA website at:

http://www.oehha.ca.gov/prop65/prop65_list/Newlist.html.

Only those chemicals that are on the list are regulated under this law. 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; for example, when exposures are sufficiently low (see below). 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. 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 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” (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 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 a 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 a Food. Certain exposures to chemicals that occur in foods naturally (i.e., that do not result from any known human activity, including activity by someone other than the person causing the exposure) are exempt from the warning requirements of the law. If the chemical is a contaminant² it must be reduced to the lowest level feasible. Regulations explaining this exemption can be found in Section 25501.

Discharges that do not result in a “significant amount” of the listed chemical entering 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 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.

² 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 the regulations and in Title 11, sections 3100-3103. A private party may not pursue an independent enforcement action 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 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.

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.

Revised: July, 2012

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Sections 25249.5, 25249.6, 25249.9, 25249.10 and 25249.11, Health and Safety Code.