		ELECTRONICALLY FILED
1	ENTORNO LAW, LLP	Superior Court of California County of Alameda
2	Noam Glick (SBN 251582) Craig M. Nicholas (SBN 178444)	11/27/2024
3	Jake W. Schulte (SBN 293777)	Chad Finke, Executive Officer / Clerk of the Court
5	Janani Natarajan (SBN 346770)	By: D. Drew Deputy
4	225 Broadway, Suite 1900 San Diego, California 92101	
5	Tel: (619) 629-0527	
6	Email: noam@entornolaw.com	
	Email: craig@entornolaw.com	
7	Email: jake@entornolaw.com Email: janani@entornolaw.com	
8		
9	Attorneys for Plaintiff	
	Environmental Health Advocates, Inc.	
10	SUPERIOR COURT OF THE	STATE OF CALIFORNIA
11	IN AND FOR THE COU	NTY OF ALAMEDA
12	ENVIRONMENTAL HEALTH ADVOCATES, INC.,	Case No.: 24CV098484
13		AMENDED COMPLAINT FOR CIVIL
14	Plaintiff, v.	PENALTIES AND INJUNCTIVE RELIEF
15	COTY INC., a Delaware corporation; ANASTASIA	(Health & Safety Code § 25249.6 et seq.)
16	BEVERLY HILLS, LLC, a California limited liability company; MARKWINS BEAUTY	
17	BRANDS, INC., a California corporation; MAKE-	
	UP ART COSMETICS (U.S.), INC., a Delaware corporation; and DOES 1 through 100, inclusive,	
18		
19	Defendants.	
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I. INTRODUCTION

2 1. This Complaint is a representative action brought by Environmental Health Advocates, 3 Inc. ("Plaintiff") in the public interest of the citizens of the State of California ("the People"). Plaintiff 4 seeks to remedy Defendants' failure to inform the People of exposure to diethanolamine ("DEA"), a 5 chemical known to the State of California to cause cancer. DEA is a common component of cosmetic 6 and grooming products, and often functions as an emulsifier or foaming agent. Defendants expose 7 consumers to DEA by manufacturing, importing, selling, and/or distributing a variety of cosmetic 8 products including, but not limited to, mascara and foundation (collectively, the "Products.") 9 Defendants know and intend that consumers will use Products containing DEA. Defendants 10 manufacture, import, sell, and/or distribute Products containing DEA in the State of California. These 11 Products¹ include: (1) CoverGirl Professional Natural Lash Mascara; (2) Lash Sculpt Lengthening & 12 Volumizing Mascara Mini; (3) Black Radiance Body Building Mascara – Black; (4) Black Radiance 13 Color Perfect Liquid Makeup Foundation; and (5) Studio Radiance Face and Body Radiant Sheer 14 Foundation. Products 1-3 are categorized as mascaras; and Products 4-5 are categorized as foundations.

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Under California's Safe Drinking Water and Toxic Enforcement Act of 1986, California
Health and Safety Code, section 25249.6 et seq. ("Proposition 65"), "[n]o person in the course of doing
business shall knowingly and intentionally expose any individual to a chemical known to the state to
cause cancer or reproductive toxicity without first giving clear and reasonable warning to such
individual..." (Health & Safety Code, § 25249.6.)

3. On or around June 22, 2012, the State of California added DEA to Proposition 65 as a
 known carcinogen, thereby requiring a clear and reasonable warning about potential exposure to DEA
 on any consumer good. Despite this, Defendants failed to sufficiently warn consumers and individuals
 in California about potential exposure to DEA in connection with Defendants' manufacture, import, sale,
 or distribution of Products. This is a violation of Proposition 65.

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¹ See 60-Day Notices of Violation Attorney General Nos. 2024-03445, 2024-03417, 2024-03459, 2024-03458, and 2024-03124 attached hereto as **Exhibits 1 – 5** (hereinafter, the "Notices.")

4. Plaintiff seeks injunctive relief compelling Defendants to sufficiently warn consumers
 in California before exposing them to DEA in Products. (Health & Safety Code, § 25249.7(a).) Plaintiff
 also seeks civil penalties against Defendants for violations of Proposition 65 along with attorney's fees
 and costs. (Health & Safety Code, § 25249.7(b).)

II. <u>PARTIES</u>

6 5. Plaintiff ENVIRONMENTAL HEALTH ADVOCATES, INC. ("Plaintiff") is a 7 corporation in the State of California dedicated to protecting the health of California citizens through 8 the elimination or reduction of toxic exposure from consumer products. Plaintiff has prosecuted a 9 number of Proposition 65 cases in the public interest. These cases have resulted in significant public 10 benefit—including the reformulation and repackaging of numerous consumer products—to make them 11 safer for California consumers, and to properly apprise California consumers of any health risks 12 associated with their usage. Plaintiff brings this action in the public interest pursuant to Health and 13 Safety Code, section 25249.7.

6. Defendant COTY INC. ("Coty") is a corporation organized and existing under the laws
of Delaware. Coty is registered to do business in California, and does business in the County of
Alameda, within the meaning of Health and Safety Code, section 25249.11. Coty manufactures, imports,
sells, or distributes Product 1 in California and Alameda County.

Defendant ANASTASIA BEVERLY HILLS, LLC ("Anastasia") is a limited liability
 company organized and existing under the laws of California. Anastasia is registered to do business in
 California, and does business in the County of Alameda, within the meaning of Health and Safety Code,
 section 25249.11. Anastasia manufactures, imports, sells, or distributes Product 2 in California and
 Alameda County.

8. Defendant MARKWINS BEAUTY BRANDS, INC. ("Markwins") is a corporation
organized and existing under the laws of California. Markwins is registered to do business in California,
and does business in the County of Alameda, within the meaning of Health and Safety Code, section
25249.11. Markwins manufactures, imports, sells, or distributes Products 3 and 4 in California and
Alameda County.

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9. Defendant MAKE-UP ART COSMETICS (U.S.), INC. ("MAC") is a corporation
 organized and existing under the laws of Delaware. MAC is registered to do business in California, and
 does business in the County of Alameda, within the meaning of Health and Safety Code, section
 25249.11. MAC manufactures, imports, sells, or distributes Product 5 in California and Alameda
 County.

10. Plaintiff does not know the true names and/or capacities, whether individual, partners,
or corporate, of the Defendants sued herein as DOES 1 through 10, inclusive, and for that reason sues
said Defendants under fictitious names pursuant to Cal. Civ. Proc. § 474. Plaintiff will seek leave to
amend this Complaint when the true names and capacities of these Defendants have been ascertained.
Plaintiff is informed and believes and thereon alleges that these Defendants are responsible in whole or
in part for the remedies and penalties sought herein.

12 11. At all times mentioned, Defendants were the agents, alter egos, servants, joint venturers,
13 joint employers, or employees for each other. Defendants acted with the consent of the other Co14 Defendants and acted within the course, purpose, and scope of their agency, service, or employment.
15 All conduct was ratified by Defendants, and each of them.

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VENUE AND JURISDICTION

12. California Constitution Article VI, Section 10 grants the Superior Court original jurisdiction in all cases except those given by statute to other trial courts. The Health and Safety Code statute upon which this action is based does not give jurisdiction to any other court. As such, this Court has jurisdiction.

13. Venue is proper in Alameda County Superior Court pursuant to Code of Civil Procedure, sections 394, 395, and 395.5. Wrongful conduct occurred and continues to occur in this County. Defendants conducted and continue to conduct business in this County as it relates to Products.

14. Defendants have sufficient minimum contacts in the State of California or otherwise purposefully avail themselves of the California market. Exercising jurisdiction over Defendants would be consistent with traditional notions of fair play and substantial justice.

BACKGROUND FACTS

15. Under California's Safe Drinking Water and Toxic Enforcement Act of 1986, California Health and Safety Code, section 2529.6 et seq. ("Proposition 65"), "no person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to the state of to cause cancer or reproductive toxicity without first giving clear and reasonable warning to such individual..." (Health & Safety Code, § 25249.6.)

16. Proposition 65 requires the State of California to maintain "a list of chemicals known to the state to cause cancer or reproductive toxicity," which is to be "revised and republished in light of additional knowledge" on at least an annual basis. (Health & Safety Code, § 25249.8(a).)

17. On June 22, 2012, the State of California formally identified and listed DEA as a chemical known to cause cancer. DEA is a common component of cosmetic and grooming products, and often functions as an emulsifier or foaming agent. In 2012, the International Agency for Research on Cancer (IARC) also formally identified DEA as a Group 2B possible human carcinogen. (*See* IARC Working Group on the Evaluation of Carcinogenic Risks to Humans, Some Chemicals Present in Industrial and Consumer Products, Food and Drinking-Water. Lyon (FR): International Agency for Research on Cancer; 2013, (IARC Monographs on the Evaluation of Carcinogenic Risks to Humans, No. 101.) DIETHANOLAMINE, available at: <u>https://www.ncbi.nlm.nih.gov/books/NBK373177/</u> [last visited November 27, 2024].)

18. Animal studies have reported effects on various organ systems from long-term topical administration of DEA. For example, a study conducted by the National Toxicology Program (hereinafter, the "NTP study") showed that dermal exposure to DEA amplified the development of tumors in the liver and kidney tubules. (*See* National Toxicology Program, NTP Toxicology and Carcinogenesis Studies of Diethanolamine (CAS No. 111-42-2) in F344/N Rats and B6C3F1 Mice (Dermal Studies). Natl Toxicol Program Tech Rep Ser. 1999 Jul; 478:1-212. PMID: 12571685., available at: <u>https://pubmed.ncbi.nlm.nih.gov/12571685/</u> [last visited November 27, 2024].)

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1 19. The Office of Environmental Health Hazard Assessment ("OEHHA") has established 2 specific safe harbor levels for many of the chemicals listed under Proposition 65. For cancer-causing 3 chemicals in particular, a safe harbor level is called a "No Significant Risk Level," or "NSRL." An 4 NSRL is the daily intake level calculated to result in one excess case of cancer in an exposed human 5 population of 100,000, assuming lifetime exposure at the level in question. (See OEHHA's Proposition 6 Developing Safe Harbor 65 Process for Numbers (February 2001). available at 7 https://oehha.ca.gov/media/downloads/crnr/2001safeharborprocess.pdf [last visited November 27, 8 2024].) The State of California has not yet established an NSRL for DEA. However, research suggests 9 that an NSRL of 5.6 micrograms/day of DEA is appropriate, where dermal absorption is the route of 10 exposure. (See Wang B, Amacher DE, Whittaker MH. Derivation of a No-Significant-Risk-Level 11 (NSRL) for diethanolamine (DEA). Regul Toxicol Pharmacol. 2014 Feb;68(1):76-84. doi: 12 10.1016/j.yrtph.2013.11.009. Epub 2013 Nov 23. PMID: 24275050. [last visited November 27, 2024].) 13 This NSRL is derived from the NTP study described above, using a benchmark dose modeling method 14 based on the incidence of hepatocellular carcinomas in female mice, in accordance with the guidelines 15 of the California Environmental Protection Agency. 16 20. In order to ensure that the injunctive relief sought herein confers a public benefit upon 17 California consumers, EHA adopts the NSRL of 5.6 micrograms/day for DEA derived from the NTP 18 study. CAUSES OF ACTION 19 20 FIRST CAUSE OF ACTION (Violation of Proposition 65 – Against all Defendants) 21 21. Plaintiff incorporates by reference each and every allegation contained above. 22 22. Proposition 65 mandates that citizens be informed about exposures to chemicals that 23 cause cancer, birth defects, and other reproductive harm. 24 23. Defendants manufactured, imported, sold, and/or distributed Products containing DEA 25 in violation of Health and Safety Code, section 25249.6 et seq. Plaintiff is informed and believes such 26 violations have continued after receipt of the Notices and will continue to occur into the future. 27

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1 24. In manufacturing, importing, selling, and/or distributing Products, Defendants failed to 2 provide a clear and reasonable warning to consumers and individuals in California who may be exposed 3 to DEA through reasonably foreseeable use of the Products.

25. Products expose individuals to DEA through dermal absorption. This exposure is a 5 natural and foreseeable consequence of Defendants placing Products into the stream of commerce. As 6 such, Defendants intend that consumers will use Products, exposing them to DEA.

7 26. Defendant's Products exceed the NSRL of 5.6 micrograms/day, which was derived from 8 the NTP study.

9 27. Defendants knew or should have known that the Products contained DEA and exposed 10 individuals to DEA in the ways provided above. The Notices informed Defendants of the presence of 11 DEA in the Products. Likewise, media coverage concerning DEA and related chemicals in consumer 12 products provided constructive notice to Defendants.

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Defendants' actions in this regard were deliberate and not accidental.

14 29. More than sixty days prior to naming each defendant in this lawsuit, Plaintiff issued 60-15 Day Notice of Violations upon each Defendant as required by and in compliance with Proposition 65. 16 Plaintiff provided the Notices to the various required public enforcement agencies along with a 17 certificate of merit. The Notices alleged that Defendants violated Proposition 65 by failing to sufficiently 18 warn consumers in California of the health hazards associated with exposures to DEA contained in the 19 Products.

20 30. The appropriate public enforcement agencies provided with the Notices failed to 21 commence and diligently prosecute a cause of action against Defendants.

22 31. Individuals exposed to DEA contained in Products through dermal absorption resulting 23 from reasonably foreseeable use of the Products have suffered and continue to suffer irreparable harm. 24 There is no other plain, speedy, or adequate remedy at law.

25 32. Defendants are liable for a maximum civil penalty of \$2,500 per day for each violation 26 of Proposition 65 pursuant to Health and Safety Code, section 252497(b). Injunctive relief is also 27 appropriate pursuant to Health and Safety Code, section 25249.7(a).

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1	PRAYER FOR RELIEF		
2	Wherefore, Plaintiff prays for judgment against Defendants as follows:		
3	1. (Civil penalties in the amount of \$	2,500 per day for each violation. Plaintiff alleges that
4	damages total a 1	minimum of \$1,000,000;	
5	2. <i>A</i>	A preliminary and permanent i	njunction against Defendants from manufacturing,
6	importing, sellin	g, and/or distributing Products in	California without providing a clear and reasonable
7	warning as requi	red by Proposition 65 and related	Regulations;
8	3. F	Reasonable attorney's fees and co	sts of suit; and
9	4. 5	Such other and further relief as m	ay be just and proper.
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11	Respectfully sul	bmitted:	
12	Dated: Novemb	er 27, 2024	ENTORNO LAW, LLP
13			Noom Slich
14		By:	Noam Glick
15			Craig M. Nicholas
16			Jake W. Schulte
17			Janani Natarajan
18			Attorneys for Plaintiff Environmental Health Advocates, Inc.
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EXHIBIT 1



ATTORNEYS AT LAW

Tel: 619-629-0527 noam@entornolaw.com craig@entornolaw.com jake@entornolaw.com janani@entornolaw.com

Via Cortified Mail.

225 Broadway, Suite 1900 San Diego, CA 92101

August 16, 2024

via Cerufiea Maii.	
Coty Inc.	Current Chief Executive Officer
c/o CSC – Lawyers Incorporating Service	Coty Inc.
2710 Gateway Oaks Drive	c/o Sue Nabi
Sacramento, CA 95833	350 Fifth Avenue
	New York, NY 10118
Ulta Salon, Cosmetics & Fragrance, Inc.	Current Chief Executive Officer
c/o CSC – Lawyers Incorporating Service	Ulta Salon, Cosmetics & Fragrances, Inc.
2710 Gateway Oaks Drive	c/o David Kimbell
Sacramento, CA 95833	1000 Remington Blvd., Suite 120
	Bolingbrook, IL 60440

Re: Proposition 65 Notice of Violation

This notice amends the original notice of violation AG No. 2024-02202. This notice serves CEOs for all entities listed.

To Whom It May Concern:

We represent Environmental Health Advocates, Inc., an organization in the State of California acting in the interest of the general public. This letter serves as notice that the parties listed above are in violation of Proposition 65, the Safe Drinking Water and Toxic Enforcement Act, commencing with section 25249.5 of the Health and Safety Code ("Proposition 65"). In particular, the violations alleged by this notice consist of types of harm that may potentially result from exposures to the toxic chemical Diethanolamine ("DEA"). This chemical was listed as a carcinogen on June 22, 2012.

The specific type of product that is causing exposures in violation of Proposition 65 is mascara including but not limited to:

	Product Name	Manufacturer	Distributor/Retailer
1.	CoverGirl Professional	Coty Inc.	Ulta Salon, Cosmetics &
	Natural Lash Mascara		Fragrance, Inc.

The routes of exposure for the violations include dermal absorption by consumers. These exposures occur through the reasonably foreseeable use of the product. The sales of this product have been occurring since at least April 2024, are continuing to this day and will continue to occur as long as the product subject to this notice is sold to and used by consumers. Proposition 65 requires that a clear and reasonable warning is provided with these products regarding the exposures to DEA caused by ordinary use of the product. The Parties are in violation of Proposition 65 by failing to provide such warning to consumers and as a result of the sales of this product, exposures to DEA have been occurring without proper warnings.

Pursuant to Proposition 65, notice and intent to sue shall be provided to violators 60days before filing a complaint. This letter provides notice of the alleged violation to the parties listed above and the appropriate governmental authorities. A summary of Proposition 65 is attached.

EHA identifies Fred Duran as a responsible individual within the entity, 12245 Carmel Vista Road, Unit 193, 92130; 915-312-2577. Mr. Duran requests all communications be sent to EHA's attorneys.

If you have any questions or wish to discuss any of the above, please contact me at noam@entornolaw.com and include clerks@entornolaw.com in the email.

Sincerely,

ENTORNO LAW LLP.

Noan Slit

Noam Glick

Craig M. Nicholas Jake Schulte Janani Natarajan

CERTIFICATE OF MERIT

I, Noam Glick, hereby declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged the parties identified in the notice have violated Health 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: August 16, 2024

Noan Slich

Noam Glick, Attorney at Law

CERTIFICATE OF SERVICE

I, Madeline Walsh, declare that I am over the age of 18 years, and am not a party to the within action. I am employed in the County of San Diego, California, where the mailing occurs; and my business address is 225 Broadway, 19th Floor, San Diego, California 92101.

On August 16, 2024, I served the following documents: (1) 60-DAY NOTICE OF VIOLATION SENT IN COMPLIANCE WITH HEALTH & SAFETY CODE SECTION 25249.7(d); (2) CERTIFICATE OF MERIT; (3) PROPOSITION 65: A SUMMARY; and (4) CERTIFICATE OF MERIT ATTACHMENT (served only on the Attorney General) on the parties listed below by placing a true and correct copy thereof in a sealed envelope, addressed to each party and depositing it at my business address with the U.S. Postal Service for delivery by Certified Mail with the postage thereon fully prepaid:

Via Certified Mail		
Coty Inc.	Current Chief Executive Officer	
c/o CSC – Lawyers Incorporating Service	Coty Inc.	
2710 Gateway Oaks Drive	c/o Sue Nabi	
Sacramento, CA 95833	350 Fifth Avenue	
	New York, NY 10118	
Ulta Salon, Cosmetics & Fragrance, Inc.	Current Chief Executive Officer	
c/o CSC – Lawyers Incorporating Service	Ulta Salon, Cosmetics & Fragrances, Inc.	
2710 Gateway Oaks Drive	c/o David Kimbell	
Sacramento, CA 95833	1000 Remington Blvd., Suite 120	
	Bolingbrok, IL 60440	

On August 16, 2024, I served the California Attorney General (via website Portal) by uploading a trueand correct copy thereof as a PDF file via the California Attorney General's website.

On August 16, 2024, I transmitted via electronic mail the above-listed documents to the electronic mail addresses of the City and/or District Attorneys who have specifically authorized e-mail serviceand the authorization appears on the Attorney General's web site.

See Attached Service List

On August 16, 2024, I served the following persons and/or entities at the last known address by placing true and correct copy thereof in a sealed envelope and depositing it at my business address with the U.S.Postal Service for delivery with the postage thereon fully prepaid, and addressed as follows:

See Attached Service List

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

Executed on August 16, 2024, at San Diego, California.

Madeline Walsh Madeline Walsh

APPENDIX A

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

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

FOR INFORMATION CONCERNING THE BASIS FOR THE ALLEGATIONS IN THE NOTICE RELATED TO YOUR BUSINESS, CONTACT THE PERSON IDENTIFIED ON THE NOTICE.

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

WHAT DOES PROPOSITION 65 REQUIRE?

The "Proposition 65 List." Under Proposition 65, the lead agency (OEHHA) publishes a list of chemicals that are known to the State of California to cause cancer and/or reproductive toxicity. Chemicals are placed on the Proposition 65 list if they are known to cause cancer and/or birth defects or other reproductive harm, such as damage to

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.

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

Only those chemicals that are on the list are regulated under Proposition 65. Businesses that produce, use, release or otherwise engage in activities involving listed chemicals must comply with the following:

Clear and reasonable warnings. A business is required to warn a person before "knowingly and intentionally" exposing that person to a listed chemical unless an exemption applies. The warning given must be "clear and reasonable." This means that the warning must: (1) clearly make known that the chemical involved is known to cause cancer, or birth defects or other reproductive harm; and (2) be given in such a way that it will effectively reach the person before he or she is exposed to that chemical. Some exposures are exempt from the warning requirement under certain circumstances discussed below.

Prohibition from discharges into drinking water. A business must not knowingly discharge or release a listed chemical into water or onto land where it passes or probably will pass into a source of drinking water. Some discharges are exempt from this requirement under certain circumstances discussed below.

DOES PROPOSITION 65 PROVIDE ANY EXEMPTIONS?

Yes. You should consult the current version of the statute and regulations (http://www.oehha.ca.gov/prop65/law/index.html) to determine all applicable exemptions, the most common of which are the following:

Grace Period. Proposition 65 warning requirements do not apply until 12 months after the chemical has been listed. The Proposition 65 discharge prohibition does not apply to a discharge or release of a chemical that takes place less than 20 months after the listing of the chemical.

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

Businesses with nine or fewer employees. Neither the warning requirement nor the discharge prohibition applies to a business that employs a total of nine or fewer employees. This includes all employees, not just those present in California.

Exposures that pose no significant risk of cancer. For chemicals that are listed under Proposition 65 as known to the State to cause cancer, a warning is not required if the business causing the exposure can demonstrate that the exposure occurs at a level that poses "no significant risk." This means that the exposure is calculated to result in not more than one excess case of cancer in 100,000 individuals exposed over a 70-year lifetime. The Proposition 65 regulations identify specific "No Significant Risk Levels" (NSRLs) for many listed carcinogens. Exposures below these levels are exempt from the warning requirement. See OEHHA's website at:

http://www.oehha.ca.gov/prop65/getNSRLs.html for a list of NSRLs, and Section 25701 *et seq.* of the regulations for information concerning how these levels are calculated.

Exposures that will produce no observable reproductive effect at 1,000 times the level in question. For chemicals known to the State to cause reproductive toxicity, a warning is not required if the business causing the exposure can demonstrate that the exposure will produce no observable effect, even at 1,000 times the level in question. In other words, the level of exposure must be below the "no observable effect level" divided by 1,000. This number is known as the Maximum Allowable Dose Level (MADL). See OEHHA's website at: http://www.oehha.ca.gov/prop65/getNSRLs.html for a list of MADLs, and Section 25801 *et seq.* of the regulations for information concerning how these levels are calculated.

Exposures to Naturally Occurring Chemicals in Food. Certain exposures to chemicals that naturally occur in foods (i.e., that do not result from any known human activity, including activity by someone other than the person causing the exposure) are exempt from the warning requirements of the law. If the chemical is a contaminant² it must be reduced to the lowest level feasible. Regulations explaining this exemption can be found in Section 25501.

Discharges that do not result in a "significant amount" of the listed chemical entering any source of drinking water. The prohibition from discharges into drinking water does not apply if the discharger is able to demonstrate that a "significant amount" of the listed chemical has not, does not, or will not pass into or probably pass into a source of drinking water, and that the discharge complies with all other applicable laws, regulations, permits, requirements, or orders. A "significant amount" means any detectable amount, except an amount that would meet the "no significant risk" level for chemicals that cause cancer or that is 1,000 times below the "no observable effect" level for chemicals that cause reproductive toxicity, if an individual were exposed to that amount in drinking water.

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 Title 27 and sections 3100-3103 of Title 11. A private party may not pursue an independent enforcement action under Proposition 65 if one of the governmental officials noted above initiates an enforcement action within sixty days of the notice.

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

A private party may not file an enforcement action based on certain exposures if the alleged violator meets specific conditions. For the following types of exposures, the Act provides an opportunity for the business to correct the alleged violation:

- An exposure to alcoholic beverages that are consumed on the alleged violator's premises to the extent onsite consumption is permitted by law;
- An exposure to a Proposition 65 listed chemical in a food or beverage prepared and sold on the alleged violator's premises that is primarily intended for immediate consumption on- or off-premises. This only applies if the chemical was not intentionally added to the food, and was formed by cooking or similar preparation of food or beverage components necessary to render the food or beverage palatable or to avoid microbiological contamination;
- An exposure to environmental tobacco smoke caused by entry of persons (other than employees) on premises owned or operated by the alleged violator where smoking is permitted at any location on the premises;
- An exposure to listed chemicals in engine exhaust, to the extent the exposure occurs inside a facility owned or operated by the alleged violator and primarily intended for parking non-commercial vehicles.

If a private party alleges that a violation occurred based on one of the exposures described above, the private party must first provide the alleged violator a notice of special compliance procedure and proof of compliance form.

A copy of the notice of special compliance procedure and proof of compliance form is included in Appendix B and can be downloaded from OEHHA's website at: http://oehha.ca.gov/prop65/law/p65law72003.html.

FOR FURTHER INFORMATION ABOUT THE LAW OR REGULATIONS...

Contact the Office of Environmental Health Hazard Assessment's Proposition 65 Implementation Office at (916) 445-6900 or via e-mail at P65Public.Comments@oehha.ca.gov.

Revised: May 2017

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Sections 25249.5, 25249.6, 25249.7, 25249.9, 25249.10 and 25249.11, Health and Safety Code.

E-Mail Service List

	1	
The Honorable Pamela Price	The Honorable Barbara Yook	The Honorable Stacey Grassini
Alameda County, District Attorney	Calaveras County, 891 Mountain Ranch Rd.	Contra Costa County, Deputy District Attorney 900 Ward Street
7677 Oakport Street, Suite 650 Oakland, CA 94621	San Andreas, CA 95249 Phone: 209-754-6330	Martinez, CA 94553
CEPDProp65@acgov.org	Prop65Env@co.calaveras.ca.us	sgrassini@contracostada.org
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The Honorable James Clinchard	The Honorable Lisa A. Smittcamp,	The Honorable Thomas L. Hardy Inyo County, District Attorney
El Dorado County, Assistant District Attorney 778 Pacific Street	Fresno County, District Attorney 2100 Tulare Street	168 North Edwards Street
Placerville, CA 95667	Fresno, CA 93721	Independence, CA 93526
EDCDAPROP65@edcda.us	Phone: (559) 600-3141	Phone: 760.878.0282
EDEDAI KOI 05@ededa.ds	consumerprotection@fresnocountyca.gov	inyoda@inyocounty.us
The Honorable Michelle Latimer	The Honorable Lori Frugoli	The Honorable Walter W. Wall,
Lassen County, Program Coordinator	Marin County, District Attorney	Mariposa County, District Attorney
220 S. Lassen Street	3501 Civic Center Drive, Room 145	P.O. Box 730
Susanville, CA 96130	San Rafael, CA 94903	Mariposa, CA 95338
Phone: 530-251-8284	consumer@marincounty.gov	Phone: (209) 966-3626
mlatimer@co.lassen.ca.us	consumer (official method in 17.50)	mcda@mariposacounty.org
		· · · ·
The Honorable Kimberly Lewis,	The Honorable Jeannine M. Pacioni,	The Honorable Allison Haley
Merced County, District Attorney	Monterey County, District Attorney	Napa County, District Attorney
550 West Main Street	1200 Aguajito Road	1127 First Street, Suite C
Merced, CA 95340 Phone: (200) 285 7381	Monterey, CA 93940 Bron 65DA Gao monterey on un	Napa, CA 94559
Phone: (209) 385-7381 Prop65@countyofmerced.com	Prop65DA@co.monterey.ca.us	CEPD@countyofnapa.org
Prop65@countyofmerced.com The Honorable Clifford H. Newell	The Honorable Morgan Briggs Gire	The Honorabble David Hollister
Nevada County, District Attorney	Placer County, District Attorney	Plumas County, District Attorney
201 Commercial Street	10810 Justice Center Drive	520 Main St.
Nevada City , CA 95959	Roseville, CA 95678	Quincy, CA 95971
DA.Prop65@co.nevada.ca.us	Phone: 916-543-8000	Phone: (530) 283-6303
Divid repositional valuea.as	prop65@placer.ca.gov	davidhollister@countyofplumas.com
The Honorable Paul E. Zellerbach	The Honorable Anne Marie Schubert	The Honorable Summer Stephan
Riverside County, District Attorney	Sacramento County, District Attorney 901 G Street	San Diego County, District Attorney
3072 Orange Street Riverside, CA 92501	Sacramento, CA 95814	330 West Broadway San Diego, CA 92101
Prop65@rivcoda.org	Prop65@sacda.org	SanDiegoDAProp65@sdcda.org
Topos@nvcoda.org	1 Topo5@sacda.org	SanDiegoDAi Topo5@sucua.org
The Honorable Alexander Grayner	The Honorable Tori Verber Salazar	The Honorable Eric J. Dobroth
San Francisco County, Asst. District Attorney	San Joaquin County, District Attorney	San Luis Obispo County, Deputy District Attorney
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San Francisco, CA 94103	Stockton, CA 95202	San Luis Obispo, CA 93408
alexandra.grayner@sfgov.org	DAConsumer.Environmental@sjcda.org	Phone: 805-781-5800
		edobroth@co.slo.ca.us
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Santa Barbara, CA 93101	Hedding St San Jose, CA 95110	Santa Cruz, CA 95060
Phone: 805-568-2300	EPU@da.sccgov.org	Phone: 831-454-2400
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600 Administration Drive	221 S Mooney Blvd	800 S Victoria Ave
Santa Rosa, CA 95403 Jeannie.Barnes@sonoma-	Visalia, CA 95370	Ventura, CA 93009 daspecialops@ventura.org
county.org	Prop65@co.tulare.ca.us	
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Yolo County, District Attorney	City of San Diego, Deputy City Attorney 1200 Third	City of San Francisco, Deputy City Attorney
301 Second Street	Avenue	1390 Market Street, 7th Floor
Woodland, CA 95695	San Diego, CA 92101	San Francisco, CA 94102
cfepd@yolocounty.org	CityAttyProp65@sandiego.gov	Prop65@sfcityatty.org
The Honorable Nerro V. Evineen		
The Honorable Nora V. Frimann		
City of Santa Clara, City Attorney 200 E. Santa Clara Street, 16th Floor		
San Jose, CA 96113		
Proposition65notices@sanjoseca.gov		

MAIL SERVICE LIST

The Honorable Robert Priscaro	The Honorable Todd Riebe	The Honorable Michael L. Ramsey
Alpine County, District Attorney	Amador County, District Attorney	Butte County, District Attorney
P.O. Box 248	708 Court Street, #202	25 County Center Drive - Administrative Building
Markleeville, CA 96120	Jackson, CA 95642	Oroville, CA 95965
The Honorable Brenden Farrell	The Honorable Katherine Micks	The Honorable Dwayne Stewart Glenn
Colusa County, District Attorney	Del Norte County, District Attorney	County, District Attorney
310 6 th Street	450 H Street, Room 171	P.O. Box 430
Colusa, CA 95932	Crescent City, CA 95531	Willows, CA 95988
The Honorable Stacey Eads Humboldt	The Honorable George Marquez	The Honorable Cynthia Zimmer
County, District Attorney	Imperial County, District Attorney	Kern County, District Attorney
825 5th Street	940 West Main Street, Suite 102	1215 Truxtun Avenue
Eureka, CA 95501	El Centro, CA 92243	Bakersfield, CA 93301
The Honorable Sarah Hacker	The Honorable Susan Krones	The Honorable George Gascon
Kings County, District Attorney	Lake County, District Attorney	Los Angeles County, District Attorney
1400 West Lacey Blvd.	255 N. Forbes Street	211 W. Temple Street, Suite 1200
Hanford, CA 93230	Lakeport, CA 95453	Los Angeles, CA 90012
The Honorable Sally O. Moreno,	The Honorable C. David Eyster	The Honorable Cynthia Campbell
District Attorney	Mendocino County, District Attorney	Modoc County, District Attorney
300 South G Street, Suite 300	P.O. Box 1000	204 S. Court Street, Room 202
Madera, CA 93637	Ukiah, CA 95482	Alturas, CA 96101
The Honorable David Anderson	The Honorable Todd Spitzer	The Honorable Joel Buckingham
Mono County, District Attorney	Orange County, District Attorney	San Benito County, District Attorney
P.O. Box 2053	300 N. Flower Street	419 4th Street
Mammoth Lakes, CA 93546	Santa Ana, CA 92703	Hollister, CA 95023
The Honorable Jason Anderson	The Honorable Stephen M. Wagstaffe	The Honorable Stephanie A. Bridgett
San Bernardino County, District Attorney	San Mateo County, District Attorney	Shasta County, District Attorney
303 W. Third Street	400 County Center, Third Floor	1355 West Street
San Bernardino, CA 92415	Redwood City, CA 94063	Redding, CA 96001
The Honorable Sandra Groven	The Honorable James Kirk Andrus	The Honorable Krishna A. Abrams
Sierra County, District Attorney	Siskiyou County, District Attorney	Solano County, District Attorney
100 Courthouse Square	P.O. Box 986	675 Texas Street, Suite 4500
Downieville, CA 95936	Yreka, CA 96097	Fairfield, CA 94533
The Honorable Jeff Laugero	The Honorable Jennifer Dupre	The Honorable Matthew Rogers
Stanislaus County, District Attorney	Sutter County, District Attorney	Tehama County, District Attorney
832 12th Street, Suite 300	463 2nd Street, Suite 102	P.O. Box 519
Modesto, CA 95353	Yuba City, CA 95991	Red Bluff, CA 96080
The Honorable David Brady	The Honorable Cassandra Jenecke	The Honorable Clint Curry
Trinity County, District Attorney	Tuolumne County, District Attorney	Yuba County, District Attorney
P.O. Box 310	2 S. Green St.	215 Fifth Street, Suite 152
Weaverville, CA 96093	Sonora, CA 95370	Marysville, CA 95901
The Honorable Mike Feuer City of Los Angeles, City Attorney 200 N. Main Street Los Angeles, CA 90012		

EXHIBIT 2



ATTORNEYS AT LAW

Tel: 619-629-0527 noam@entornolaw.com craig@entornolaw.com jake@entornolaw.com janani@entornolaw.com

Via Cortified Mail.

225 Broadway, Suite 1900 San Diego, CA 92101

August 16, 2024

Current Chief Executive Officer
Anastasia Beverly Hills, LLC
c/o Anastasia Soare
438 North Bedford Drive
Beverly Hills, CA 90210
Current Chief Executive Officer
Ulta Salon, Cosmetics & Fragrance, Inc.
c/o David Kimbell
1000 Remington Blvd, Suite 120
Bolingbrook, IL 60440

Re: Proposition 65 Notice of Violation

To Whom It May Concern:

We represent Environmental Health Advocates, Inc., an organization in the State of California acting in the interest of the general public. This letter serves as notice that the parties listed above are in violation of Proposition 65, the Safe Drinking Water and Toxic Enforcement Act, commencing with section 25249.5 of the Health and Safety Code ("Proposition 65"). In particular, the violations alleged by this notice consist of types of harm that may potentially result from exposures to the toxic chemical Diethanolamine ("DEA"). This chemical was listed as a carcinogen on June 22, 2012.

The specific type of product that is causing exposures in violation of Proposition 65 is mascara including but not limited to:

	Product Name	Manufacturer	Distributor/Retailer
1.	Lash Sculpt Lengthening & Volumizing Mascara Mini	Anastasia Beverly Hills, LLC	Ulta Salon, Cosmetics & Fragrance, Inc.

The routes of exposure for the violations include dermal absorption by consumers. These exposures occur through the reasonably foreseeable use of the product. The sales of this product have been occurring since at least July 2024, are continuing to this day and will continue to occur as long as the product subject to this notice is sold to and used by consumers. Proposition 65 requires that a clear and reasonable warning is provided with these products regarding the exposures to DEA caused by ordinary use of the product. The Parties are in violation of Proposition 65 by failing to provide such warning to consumers and as a result of the sales of this product, exposures to DEA have been occurring without proper warnings.

Pursuant to Proposition 65, notice and intent to sue shall be provided to violators 60days before filing a complaint. This letter provides notice of the alleged violation to the parties listed above and the appropriate governmental authorities. A summary of Proposition 65 is attached.

EHA identifies Fred Duran as a responsible individual within the entity, 12245 Carmel Vista Road, Unit 193, 92130; 915-312-2577. Mr. Duran requests all communications be sent to EHA's attorneys.

If you have any questions or wish to discuss any of the above, please contact me at jake@entornolaw.com and include clerks@entornolaw.com in the email.

ENTORNO LAW, LLP

Jala Julie

Jake Schulte

Noam Glick Craig M. Nicholas Janani Natarajan

Enclosures

CERTIFICATE OF MERIT

I, Jake Schulte, hereby declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged the parties identified in the notice have violated Health 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 listedchemical that is the subject of the action.

4. Based on the information obtained through those consultations, and on all other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for the private action" means that the information provides a credible basis that all elements of the plaintiffs' case can be established andthe 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 factualinformation 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 withand relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

Dated: August 16, 2024

Jala Agh He

Jake Schulte, Attorney at Law

CERTIFICATE OF SERVICE

I, Camille Sytko, declare that I am over the age of 18 years, and am not a party to the within action. I am employed in the County of San Diego, California, where the mailing occurs; and my business address is 225 Broadway, 19th Floor, San Diego, California 92101.

On August 16, 2024, I served the following documents: (1) 60-DAY NOTICE OF VIOLATION SENT IN COMPLIANCE WITH HEALTH & SAFETY CODE SECTION 25249.7(d); (2) CERTIFICATE OF MERIT; (3) PROPOSITION 65: A SUMMARY; and (4) CERTIFICATE OF MERIT ATTACHMENT (served only on the Attorney General) on the parties listed below by placing a true and correct copy thereof in a sealed envelope, addressed to each party and depositing it at my business address with the U.S. Postal Service for delivery by Certified Mail with the postage thereon fully prepaid:

Via Certified Mail		
Anastasia Beverly Hills, LLC	Current Chief Executive Officer	
c/o C T Corporation System	Anastasia Beverly Hills, LLC	
330 North Brand Blvd	c/o Anastasia Soare	
Glendale, CA 92103	438 North Bedford Drive	
	Beverly Hills, CA 90210	
Ulta Salon, Cosmetics & Fragrance, Inc.	Current Chief Executive Officer	
c/o CSC – Lawyers Incorporating Service	Ulta Salon, Cosmetics & Fragrance, Inc.	
2710 Gateway Oaks Drive	c/o David Kimbell	
Sacramento, CA 05833	1000 Remington Blvd, Suite 120	
	Bolingbrook, IL 60440	

On August 16, 2024, I served the California Attorney General (via website Portal) by uploading a true and correct copy thereof as a PDF file via the California Attorney General's website.

On August 16, 2024, I transmitted via electronic mail the above-listed documents to the electronic mail addresses of the City and/or District Attorneys who have specifically authorized e-mail serviceand the authorization appears on the Attorney General's web site.

See Attached Service List

On August 16, 2024, I served the following persons and/or entities at the last known address by placing a true and correct copy thereof in a sealed envelope and depositing it at my business address with the U.S.Postal Service for delivery with the postage thereon fully prepaid, and addressed as follows:

See Attached Service List

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

Executed on August 16, 2024, at San Diego, California.

<u>Camille Sytko</u>

APPENDIX A

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

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

FOR INFORMATION CONCERNING THE BASIS FOR THE ALLEGATIONS IN THE NOTICE RELATED TO YOUR BUSINESS, CONTACT THE PERSON IDENTIFIED ON THE NOTICE.

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

WHAT DOES PROPOSITION 65 REQUIRE?

The "Proposition 65 List." Under Proposition 65, the lead agency (OEHHA) publishes a list of chemicals that are known to the State of California to cause cancer and/or reproductive toxicity. Chemicals are placed on the Proposition 65 list if they are known to cause cancer and/or birth defects or other reproductive harm, such as damage to

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.

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

Only those chemicals that are on the list are regulated under Proposition 65. Businesses that produce, use, release or otherwise engage in activities involving listed chemicals must comply with the following:

Clear and reasonable warnings. A business is required to warn a person before "knowingly and intentionally" exposing that person to a listed chemical unless an exemption applies. The warning given must be "clear and reasonable." This means that the warning must: (1) clearly make known that the chemical involved is known to cause cancer, or birth defects or other reproductive harm; and (2) be given in such a way that it will effectively reach the person before he or she is exposed to that chemical. Some exposures are exempt from the warning requirement under certain circumstances discussed below.

Prohibition from discharges into drinking water. A business must not knowingly discharge or release a listed chemical into water or onto land where it passes or probably will pass into a source of drinking water. Some discharges are exempt from this requirement under certain circumstances discussed below.

DOES PROPOSITION 65 PROVIDE ANY EXEMPTIONS?

Yes. You should consult the current version of the statute and regulations (http://www.oehha.ca.gov/prop65/law/index.html) to determine all applicable exemptions, the most common of which are the following:

Grace Period. Proposition 65 warning requirements do not apply until 12 months after the chemical has been listed. The Proposition 65 discharge prohibition does not apply to a discharge or release of a chemical that takes place less than 20 months after the listing of the chemical.

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

Businesses with nine or fewer employees. Neither the warning requirement nor the discharge prohibition applies to a business that employs a total of nine or fewer employees. This includes all employees, not just those present in California.

Exposures that pose no significant risk of cancer. For chemicals that are listed under Proposition 65 as known to the State to cause cancer, a warning is not required if the business causing the exposure can demonstrate that the exposure occurs at a level that poses "no significant risk." This means that the exposure is calculated to result in not more than one excess case of cancer in 100,000 individuals exposed over a 70-year lifetime. The Proposition 65 regulations identify specific "No Significant Risk Levels" (NSRLs) for many listed carcinogens. Exposures below these levels are exempt from the warning requirement. See OEHHA's website at:

http://www.oehha.ca.gov/prop65/getNSRLs.html for a list of NSRLs, and Section 25701 *et seq.* of the regulations for information concerning how these levels are calculated.

Exposures that will produce no observable reproductive effect at 1,000 times the level in question. For chemicals known to the State to cause reproductive toxicity, a warning is not required if the business causing the exposure can demonstrate that the exposure will produce no observable effect, even at 1,000 times the level in question. In other words, the level of exposure must be below the "no observable effect level" divided by 1,000. This number is known as the Maximum Allowable Dose Level (MADL). See OEHHA's website at: http://www.oehha.ca.gov/prop65/getNSRLs.html for a list of MADLs, and Section 25801 *et seq.* of the regulations for information concerning how these levels are calculated.

Exposures to Naturally Occurring Chemicals in Food. Certain exposures to chemicals that naturally occur in foods (i.e., that do not result from any known human activity, including activity by someone other than the person causing the exposure) are exempt from the warning requirements of the law. If the chemical is a contaminant² it must be reduced to the lowest level feasible. Regulations explaining this exemption can be found in Section 25501.

Discharges that do not result in a "significant amount" of the listed chemical entering any source of drinking water. The prohibition from discharges into drinking water does not apply if the discharger is able to demonstrate that a "significant amount" of the listed chemical has not, does not, or will not pass into or probably pass into a source of drinking water, and that the discharge complies with all other applicable laws, regulations, permits, requirements, or orders. A "significant amount" means any detectable amount, except an amount that would meet the "no significant risk" level for chemicals that cause cancer or that is 1,000 times below the "no observable effect" level for chemicals that cause reproductive toxicity, if an individual were exposed to that amount in drinking water.

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 Title 27 and sections 3100-3103 of Title 11. A private party may not pursue an independent enforcement action under Proposition 65 if one of the governmental officials noted above initiates an enforcement action within sixty days of the notice.

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

A private party may not file an enforcement action based on certain exposures if the alleged violator meets specific conditions. For the following types of exposures, the Act provides an opportunity for the business to correct the alleged violation:

- An exposure to alcoholic beverages that are consumed on the alleged violator's premises to the extent onsite consumption is permitted by law;
- An exposure to a Proposition 65 listed chemical in a food or beverage prepared and sold on the alleged violator's premises that is primarily intended for immediate consumption on- or off-premises. This only applies if the chemical was not intentionally added to the food, and was formed by cooking or similar preparation of food or beverage components necessary to render the food or beverage palatable or to avoid microbiological contamination;
- An exposure to environmental tobacco smoke caused by entry of persons (other than employees) on premises owned or operated by the alleged violator where smoking is permitted at any location on the premises;
- An exposure to listed chemicals in engine exhaust, to the extent the exposure occurs inside a facility owned or operated by the alleged violator and primarily intended for parking non-commercial vehicles.

If a private party alleges that a violation occurred based on one of the exposures described above, the private party must first provide the alleged violator a notice of special compliance procedure and proof of compliance form.

A copy of the notice of special compliance procedure and proof of compliance form is included in Appendix B and can be downloaded from OEHHA's website at: http://oehha.ca.gov/prop65/law/p65law72003.html.

FOR FURTHER INFORMATION ABOUT THE LAW OR REGULATIONS...

Contact the Office of Environmental Health Hazard Assessment's Proposition 65 Implementation Office at (916) 445-6900 or via e-mail at P65Public.Comments@oehha.ca.gov.

Revised: May 2017

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Sections 25249.5, 25249.6, 25249.7, 25249.9, 25249.10 and 25249.11, Health and Safety Code.

E-Mail Service List

	1	
The Honorable Pamela Price	The Honorable Barbara Yook	The Honorable Stacey Grassini
Alameda County, District Attorney	Calaveras County, 891 Mountain Ranch Rd.	Contra Costa County, Deputy District Attorney 900 Ward Street
7677 Oakport Street, Suite 650 Oakland, CA 94621	San Andreas, CA 95249 Phone: 209-754-6330	Martinez, CA 94553
CEPDProp65@acgov.org	Prop65Env@co.calaveras.ca.us	sgrassini@contracostada.org
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The Honorable James Clinchard	The Honorable Lisa A. Smittcamp,	The Honorable Thomas L. Hardy Inyo County, District Attorney
El Dorado County, Assistant District Attorney 778 Pacific Street	Fresno County, District Attorney 2100 Tulare Street	168 North Edwards Street
Placerville, CA 95667	Fresno, CA 93721	Independence, CA 93526
EDCDAPROP65@edcda.us	Phone: (559) 600-3141	Phone: 760.878.0282
EDEDAI KOI 05@ededa.ds	consumerprotection@fresnocountyca.gov	inyoda@inyocounty.us
The Honorable Michelle Latimer	The Honorable Lori Frugoli	The Honorable Walter W. Wall,
Lassen County, Program Coordinator	Marin County, District Attorney	Mariposa County, District Attorney
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Susanville, CA 96130	San Rafael, CA 94903	Mariposa, CA 95338
Phone: 530-251-8284	consumer@marincounty.gov	Phone: (209) 966-3626
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Merced, CA 95340 Phone: (200) 285 7381	Monterey, CA 93940 Bron 65DA Gao monterey on un	Napa, CA 94559
Phone: (209) 385-7381 Prop65@countyofmerced.com	Prop65DA@co.monterey.ca.us	CEPD@countyofnapa.org
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201 Commercial Street	10810 Justice Center Drive	520 Main St.
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DA.Prop65@co.nevada.ca.us	Phone: 916-543-8000	Phone: (530) 283-6303
Divid repositional valuea.as	prop65@placer.ca.gov	davidhollister@countyofplumas.com
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Riverside County, District Attorney	Sacramento County, District Attorney 901 G Street	San Diego County, District Attorney
3072 Orange Street Riverside, CA 92501	Sacramento, CA 95814	330 West Broadway San Diego, CA 92101
Prop65@rivcoda.org	Prop65@sacda.org	SanDiegoDAProp65@sdcda.org
Topos@nvcoda.org	1 Topo5@sacda.org	SanDiegoDAi Topo5@sucua.org
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San Francisco County, Asst. District Attorney	San Joaquin County, District Attorney	San Luis Obispo County, Deputy District Attorney
350 Rhode Island Street	222 E. Weber Avenue, Room 202	County Government Center Annex, 4th Floor
San Francisco, CA 94103	Stockton, CA 95202	San Luis Obispo, CA 93408
alexandra.grayner@sfgov.org	DAConsumer.Environmental@sjcda.org	Phone: 805-781-5800
		edobroth@co.slo.ca.us
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1112 Santa Barbara St.	Attorney 70 W	701 Ocean Street
Santa Barbara, CA 93101	Hedding St San Jose, CA 95110	Santa Cruz, CA 95060
Phone: 805-568-2300	EPU@da.sccgov.org	Phone: 831-454-2400
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600 Administration Drive	221 S Mooney Blvd	800 S Victoria Ave
Santa Rosa, CA 95403 Jeannie.Barnes@sonoma-	Visalia, CA 95370	Ventura, CA 93009 daspecialops@ventura.org
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The Honorable Nerro V. Evineen		
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City of Santa Clara, City Attorney 200 E. Santa Clara Street, 16th Floor		
San Jose, CA 96113		
Proposition65notices@sanjoseca.gov		

MAIL SERVICE LIST

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Alpine County, District Attorney	Amador County, District Attorney	Butte County, District Attorney
P.O. Box 248	708 Court Street, #202	25 County Center Drive - Administrative Building
Markleeville, CA 96120	Jackson, CA 95642	Oroville, CA 95965
The Honorable Brenden Farrell	The Honorable Katherine Micks	The Honorable Dwayne Stewart Glenn
Colusa County, District Attorney	Del Norte County, District Attorney	County, District Attorney
310 6 th Street	450 H Street, Room 171	P.O. Box 430
Colusa, CA 95932	Crescent City, CA 95531	Willows, CA 95988
The Honorable Stacey Eads Humboldt	The Honorable George Marquez	The Honorable Cynthia Zimmer
County, District Attorney	Imperial County, District Attorney	Kern County, District Attorney
825 5th Street	940 West Main Street, Suite 102	1215 Truxtun Avenue
Eureka, CA 95501	El Centro, CA 92243	Bakersfield, CA 93301
The Honorable Sarah Hacker	The Honorable Susan Krones	The Honorable George Gascon
Kings County, District Attorney	Lake County, District Attorney	Los Angeles County, District Attorney
1400 West Lacey Blvd.	255 N. Forbes Street	211 W. Temple Street, Suite 1200
Hanford, CA 93230	Lakeport, CA 95453	Los Angeles, CA 90012
The Honorable Sally O. Moreno,	The Honorable C. David Eyster	The Honorable Cynthia Campbell
District Attorney	Mendocino County, District Attorney	Modoc County, District Attorney
300 South G Street, Suite 300	P.O. Box 1000	204 S. Court Street, Room 202
Madera, CA 93637	Ukiah, CA 95482	Alturas, CA 96101
The Honorable David Anderson	The Honorable Todd Spitzer	The Honorable Joel Buckingham
Mono County, District Attorney	Orange County, District Attorney	San Benito County, District Attorney
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Mammoth Lakes, CA 93546	Santa Ana, CA 92703	Hollister, CA 95023
The Honorable Jason Anderson	The Honorable Stephen M. Wagstaffe	The Honorable Stephanie A. Bridgett
San Bernardino County, District Attorney	San Mateo County, District Attorney	Shasta County, District Attorney
303 W. Third Street	400 County Center, Third Floor	1355 West Street
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The Honorable Sandra Groven	The Honorable James Kirk Andrus	The Honorable Krishna A. Abrams
Sierra County, District Attorney	Siskiyou County, District Attorney	Solano County, District Attorney
100 Courthouse Square	P.O. Box 986	675 Texas Street, Suite 4500
Downieville, CA 95936	Yreka, CA 96097	Fairfield, CA 94533
The Honorable Jeff Laugero	The Honorable Jennifer Dupre	The Honorable Matthew Rogers
Stanislaus County, District Attorney	Sutter County, District Attorney	Tehama County, District Attorney
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Modesto, CA 95353	Yuba City, CA 95991	Red Bluff, CA 96080
The Honorable David Brady	The Honorable Cassandra Jenecke	The Honorable Clint Curry
Trinity County, District Attorney	Tuolumne County, District Attorney	Yuba County, District Attorney
P.O. Box 310	2 S. Green St.	215 Fifth Street, Suite 152
Weaverville, CA 96093	Sonora, CA 95370	Marysville, CA 95901
The Honorable Mike Feuer City of Los Angeles, City Attorney 200 N. Main Street Los Angeles, CA 90012		

EXHIBIT 3



ATTORNEYS AT LAW

Tel: 619-629-0527 noam@entornolaw.com craig@entornolaw.com jake@entornolaw.com janani@entornolaw.com

225 Broadway, Suite 1900 San Diego, CA 92101

August 16, 2024

<u>Via Certified Mail:</u>			
Markwins Beauty Brands, Inc.	Current Chief Executive Officer		
c/o John Chen	Markwins Beauty Brands, Inc.		
22067 Ferrero Parkway	c/o Lina Chen		
City of Industry, CA 91789	22067 Ferrero Parkway	22067 Ferrero Parkway	
	City of Industry, CA 91789		
Target Corporation	Current Chief Executive Officer		
c/o C T Corporation System	Target Corporation		
330 N Brand Blvd.	c/o Brian C. Cornell	c/o Brian C. Cornell	
Glendale, CA 91203	1000 Nicollet Mall	1000 Nicollet Mall	
	Minneapolis, MN 55403		

Re: Proposition 65 Notice of Violation

To Whom It May Concern:

We represent Environmental Health Advocates, Inc., an organization in the State of California acting in the interest of the general public. This letter serves as notice that the parties listed above are in violation of Proposition 65, the Safe Drinking Water and Toxic Enforcement Act, commencing with section 25249.5 of the Health and Safety Code ("Proposition 65"). In particular, the violations alleged by this notice consist of types of harm that may potentially result from exposures to the toxic chemical Diethanolamine ("DEA"). This chemical was listed as a carcinogen on June 22, 2012.

The specific type of product that is causing exposures in violation of Proposition 65 is mascara including but not limited to:

	Product Name	Manufacturer	Distributor/Retailer
1.	Black Radiance Body	Markwins Beauty Brands,	Target Corporation
	Building Mascara - Black -	Inc.	
	0.27 fl oz		

The routes of exposure for the violations include dermal absorption by consumers. These exposures occur through the reasonably foreseeable use of the product. The sales of this product have been occurring since at least July 2024, are continuing to this day and will continue to occur as long as the product subject to this notice is sold to and used by consumers. Proposition 65 requires that a clear and reasonable warning is provided with these products regarding the exposures to DEA caused by ordinary use of the product. The Parties are in violation of Proposition 65 by failing to provide such warning to consumers and as a result of the sales of this product, exposures to DEA have been occurring without proper warnings.

Pursuant to Proposition 65, notice and intent to sue shall be provided to violators 60days before filing a complaint. This letter provides notice of the alleged violation to the parties listed above and the appropriate governmental authorities. A summary of Proposition 65 is attached.

EHA identifies Fred Duran as a responsible individual within the entity, 12245 Carmel Vista Road, Unit 193, 92130; 915-312-2577. Mr. Duran requests all communications be sent to EHA's attorneys.

If you have any questions or wish to discuss any of the above, please contact me at jake@entornolaw.com and include clerks@entornolaw.com in the email.

ENTORNO LAW, LLP

Jala Julie

Jake Schulte

Noam Glick Craig M. Nicholas Janani Natarajan

Enclosures

CERTIFICATE OF MERIT

I, Jake Schulte, hereby declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged the parties identified in the notice have violated Health 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 listedchemical that is the subject of the action.

4. Based on the information obtained through those consultations, and on all other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for the private action" means that the information provides a credible basis that all elements of the plaintiffs' case can be established andthe 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 factualinformation 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 withand relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

Dated: August 16, 2024

Jala Jak He

Jake Schulte, Attorney at Law

CERTIFICATE OF SERVICE

I, Gayatri Bhanot, declare that I am over the age of 18 years, and am not a party to the within action. I am employed in the County of San Diego, California, where the mailing occurs; and my business address is 225 Broadway, 19th Floor, San Diego, California 92101.

On August 16, 2024, I served the following documents: (1) 60-DAY NOTICE OF VIOLATION SENT IN COMPLIANCE WITH HEALTH & SAFETY CODE SECTION 25249.7(d); (2) CERTIFICATE OF MERIT; (3) PROPOSITION 65: A SUMMARY; and (4) **CERTIFICATE OF MERIT ATTACHMENT (served only on the Attorney General)** on the parties listed below by placing a true and correct copy thereof in a sealed envelope, addressed to each party and depositing it at my business address with the U.S. Postal Service for delivery by Certified Mail with the postage thereon fully prepaid:

Via Certified Mail		
Markwins Beauty Brands, Inc.	Current Chief Executive Officer	
c/o John Chen	Markwins Beauty Brands, Inc.	
22067 Ferrero Parkway	c/o Lina Chen	
City of Industry, CA 91789	22067 Ferrero Parkway	
	City of Industry, CA 91789	
Target Corporation	Current Chief Executive Officer	
c/o C T Corporation System	Target Corporation	
330 N Brand Blvd.	c/o Brian C. Cornell	
Glendale, CA 91203	1000 Nicollet Mall	
	Minneapolis, MN 55403	

On August 16, 2024, I served the California Attorney General (via website Portal) by uploading a trueand correct copy thereof as a PDF file via the California Attorney General's website.

On August 16, 2024, I transmitted via electronic mail the above-listed documents to the electronic mail addresses of the City and/or District Attorneys who have specifically authorized e-mail serviceand the authorization appears on the Attorney General's web site.

See Attached Service List

On August 16, 2024, I served the following persons and/or entities at the last known address by placing true and correct copy thereof in a sealed envelope and depositing it at my business address with the U.S.Postal Service for delivery with the postage thereon fully prepaid, and addressed as follows:

See Attached Service List

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

Executed on August 16, 2024, at San Diego, California.

Gayatri Bhanot Gayatri Bhanot

APPENDIX A

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

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

FOR INFORMATION CONCERNING THE BASIS FOR THE ALLEGATIONS IN THE NOTICE RELATED TO YOUR BUSINESS, CONTACT THE PERSON IDENTIFIED ON THE NOTICE.

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

WHAT DOES PROPOSITION 65 REQUIRE?

The "Proposition 65 List." Under Proposition 65, the lead agency (OEHHA) publishes a list of chemicals that are known to the State of California to cause cancer and/or reproductive toxicity. Chemicals are placed on the Proposition 65 list if they are known to cause cancer and/or birth defects or other reproductive harm, such as damage to

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.

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

Only those chemicals that are on the list are regulated under Proposition 65. Businesses that produce, use, release or otherwise engage in activities involving listed chemicals must comply with the following:

Clear and reasonable warnings. A business is required to warn a person before "knowingly and intentionally" exposing that person to a listed chemical unless an exemption applies. The warning given must be "clear and reasonable." This means that the warning must: (1) clearly make known that the chemical involved is known to cause cancer, or birth defects or other reproductive harm; and (2) be given in such a way that it will effectively reach the person before he or she is exposed to that chemical. Some exposures are exempt from the warning requirement under certain circumstances discussed below.

Prohibition from discharges into drinking water. A business must not knowingly discharge or release a listed chemical into water or onto land where it passes or probably will pass into a source of drinking water. Some discharges are exempt from this requirement under certain circumstances discussed below.

DOES PROPOSITION 65 PROVIDE ANY EXEMPTIONS?

Yes. You should consult the current version of the statute and regulations (http://www.oehha.ca.gov/prop65/law/index.html) to determine all applicable exemptions, the most common of which are the following:

Grace Period. Proposition 65 warning requirements do not apply until 12 months after the chemical has been listed. The Proposition 65 discharge prohibition does not apply to a discharge or release of a chemical that takes place less than 20 months after the listing of the chemical.

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

Businesses with nine or fewer employees. Neither the warning requirement nor the discharge prohibition applies to a business that employs a total of nine or fewer employees. This includes all employees, not just those present in California.

Exposures that pose no significant risk of cancer. For chemicals that are listed under Proposition 65 as known to the State to cause cancer, a warning is not required if the business causing the exposure can demonstrate that the exposure occurs at a level that poses "no significant risk." This means that the exposure is calculated to result in not more than one excess case of cancer in 100,000 individuals exposed over a 70-year lifetime. The Proposition 65 regulations identify specific "No Significant Risk Levels" (NSRLs) for many listed carcinogens. Exposures below these levels are exempt from the warning requirement. See OEHHA's website at:

http://www.oehha.ca.gov/prop65/getNSRLs.html for a list of NSRLs, and Section 25701 *et seq.* of the regulations for information concerning how these levels are calculated.

Exposures that will produce no observable reproductive effect at 1,000 times the level in question. For chemicals known to the State to cause reproductive toxicity, a warning is not required if the business causing the exposure can demonstrate that the exposure will produce no observable effect, even at 1,000 times the level in question. In other words, the level of exposure must be below the "no observable effect level" divided by 1,000. This number is known as the Maximum Allowable Dose Level (MADL). See OEHHA's website at: http://www.oehha.ca.gov/prop65/getNSRLs.html for a list of MADLs, and Section 25801 *et seq.* of the regulations for information concerning how these levels are calculated.

Exposures to Naturally Occurring Chemicals in Food. Certain exposures to chemicals that naturally occur in foods (i.e., that do not result from any known human activity, including activity by someone other than the person causing the exposure) are exempt from the warning requirements of the law. If the chemical is a contaminant² it must be reduced to the lowest level feasible. Regulations explaining this exemption can be found in Section 25501.

Discharges that do not result in a "significant amount" of the listed chemical entering any source of drinking water. The prohibition from discharges into drinking water does not apply if the discharger is able to demonstrate that a "significant amount" of the listed chemical has not, does not, or will not pass into or probably pass into a source of drinking water, and that the discharge complies with all other applicable laws, regulations, permits, requirements, or orders. A "significant amount" means any detectable amount, except an amount that would meet the "no significant risk" level for chemicals that cause cancer or that is 1,000 times below the "no observable effect" level for chemicals that cause reproductive toxicity, if an individual were exposed to that amount in drinking water.

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 Title 27 and sections 3100-3103 of Title 11. A private party may not pursue an independent enforcement action under Proposition 65 if one of the governmental officials noted above initiates an enforcement action within sixty days of the notice.

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

A private party may not file an enforcement action based on certain exposures if the alleged violator meets specific conditions. For the following types of exposures, the Act provides an opportunity for the business to correct the alleged violation:

- An exposure to alcoholic beverages that are consumed on the alleged violator's premises to the extent onsite consumption is permitted by law;
- An exposure to a Proposition 65 listed chemical in a food or beverage prepared and sold on the alleged violator's premises that is primarily intended for immediate consumption on- or off-premises. This only applies if the chemical was not intentionally added to the food, and was formed by cooking or similar preparation of food or beverage components necessary to render the food or beverage palatable or to avoid microbiological contamination;
- An exposure to environmental tobacco smoke caused by entry of persons (other than employees) on premises owned or operated by the alleged violator where smoking is permitted at any location on the premises;
- An exposure to listed chemicals in engine exhaust, to the extent the exposure occurs inside a facility owned or operated by the alleged violator and primarily intended for parking non-commercial vehicles.

If a private party alleges that a violation occurred based on one of the exposures described above, the private party must first provide the alleged violator a notice of special compliance procedure and proof of compliance form.

A copy of the notice of special compliance procedure and proof of compliance form is included in Appendix B and can be downloaded from OEHHA's website at: http://oehha.ca.gov/prop65/law/p65law72003.html.

FOR FURTHER INFORMATION ABOUT THE LAW OR REGULATIONS...

Contact the Office of Environmental Health Hazard Assessment's Proposition 65 Implementation Office at (916) 445-6900 or via e-mail at P65Public.Comments@oehha.ca.gov.

Revised: May 2017

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Sections 25249.5, 25249.6, 25249.7, 25249.9, 25249.10 and 25249.11, Health and Safety Code.

E-Mail Service List

	1	
The Honorable Pamela Price	The Honorable Barbara Yook	The Honorable Stacey Grassini
Alameda County, District Attorney	Calaveras County, 891 Mountain Ranch Rd.	Contra Costa County, Deputy District Attorney 900 Ward Street
7677 Oakport Street, Suite 650 Oakland, CA 94621	San Andreas, CA 95249 Phone: 209-754-6330	Martinez, CA 94553
CEPDProp65@acgov.org	Prop65Env@co.calaveras.ca.us	sgrassini@contracostada.org
	* 0	• •
The Honorable James Clinchard	The Honorable Lisa A. Smittcamp,	The Honorable Thomas L. Hardy Inyo County, District Attorney
El Dorado County, Assistant District Attorney 778 Pacific Street	Fresno County, District Attorney 2100 Tulare Street	168 North Edwards Street
Placerville, CA 95667	Fresno, CA 93721	Independence, CA 93526
EDCDAPROP65@edcda.us	Phone: (559) 600-3141	Phone: 760.878.0282
EDEDAI KOI 05@ededa.ds	consumerprotection@fresnocountyca.gov	inyoda@inyocounty.us
The Honorable Michelle Latimer	The Honorable Lori Frugoli	The Honorable Walter W. Wall,
Lassen County, Program Coordinator	Marin County, District Attorney	Mariposa County, District Attorney
220 S. Lassen Street	3501 Civic Center Drive, Room 145	P.O. Box 730
Susanville, CA 96130	San Rafael, CA 94903	Mariposa, CA 95338
Phone: 530-251-8284	consumer@marincounty.gov	Phone: (209) 966-3626
mlatimer@co.lassen.ca.us	consumer (official method in 17.50)	mcda@mariposacounty.org
		· · · ·
The Honorable Kimberly Lewis,	The Honorable Jeannine M. Pacioni,	The Honorable Allison Haley
Merced County, District Attorney	Monterey County, District Attorney	Napa County, District Attorney
550 West Main Street	1200 Aguajito Road	1127 First Street, Suite C
Merced, CA 95340 Phone: (200) 285 7381	Monterey, CA 93940 Bron 65DA Gao monterey on un	Napa, CA 94559
Phone: (209) 385-7381 Prop65@countyofmerced.com	Prop65DA@co.monterey.ca.us	CEPD@countyofnapa.org
Prop65@countyofmerced.com The Honorable Clifford H. Newell	The Honorable Morgan Briggs Gire	The Honorabble David Hollister
Nevada County, District Attorney	Placer County, District Attorney	Plumas County, District Attorney
201 Commercial Street	10810 Justice Center Drive	520 Main St.
Nevada City , CA 95959	Roseville, CA 95678	Quincy, CA 95971
DA.Prop65@co.nevada.ca.us	Phone: 916-543-8000	Phone: (530) 283-6303
Divid repositional valuea.as	prop65@placer.ca.gov	davidhollister@countyofplumas.com
The Honorable Paul E. Zellerbach	The Honorable Anne Marie Schubert	The Honorable Summer Stephan
Riverside County, District Attorney	Sacramento County, District Attorney 901 G Street	San Diego County, District Attorney
3072 Orange Street Riverside, CA 92501	Sacramento, CA 95814	330 West Broadway San Diego, CA 92101
Prop65@rivcoda.org	Prop65@sacda.org	SanDiegoDAProp65@sdcda.org
Topos@Tiveoda.org	1 Topo5@sacda.org	SanDiegoDAi Topo5@sucua.org
The Honorable Alexander Grayner	The Honorable Tori Verber Salazar	The Honorable Eric J. Dobroth
San Francisco County, Asst. District Attorney	San Joaquin County, District Attorney	San Luis Obispo County, Deputy District Attorney
350 Rhode Island Street	222 E. Weber Avenue, Room 202	County Government Center Annex, 4th Floor
San Francisco, CA 94103	Stockton, CA 95202	San Luis Obispo, CA 93408
alexandra.grayner@sfgov.org	DAConsumer.Environmental@sjcda.org	Phone: 805-781-5800
		edobroth@co.slo.ca.us
The Honorable Christopher Dalbey	The Honorable Bud Porter	The Honorable Jeffrey S. Rosell
Santa Barbara County, Deputy District Attorney	Santa Clara County, Supervising Deputy District	Santa Cruz County, District Attorney
1112 Santa Barbara St.	Attorney 70 W	701 Ocean Street
Santa Barbara, CA 93101	Hedding St San Jose, CA 95110	Santa Cruz, CA 95060
Phone: 805-568-2300	EPU@da.sccgov.org	Phone: 831-454-2400
DAProp65@co.santa-barbara.ca.us		Prop65DA@santacruzcounty.us
The Honorable Jill Ravitch	The Honorable Phillip J. Cline	The Honorable Gregory D. Totten
Sonoma County, District Attorney	Tulare County, District Attorney	Ventura County, District Attorney
600 Administration Drive	221 S Mooney Blvd	800 S Victoria Ave
Santa Rosa, CA 95403 Jeannie.Barnes@sonoma-	Visalia, CA 95370	Ventura, CA 93009 daspecialops@ventura.org
county.org	Prop65@co.tulare.ca.us	
The Honorable Jeff W. Resig	The Honorable Mark Ankcorn	The Honorable Henry Lifton
Yolo County, District Attorney	City of San Diego, Deputy City Attorney 1200 Third	City of San Francisco, Deputy City Attorney
301 Second Street	Avenue	1390 Market Street, 7th Floor
Woodland, CA 95695	San Diego, CA 92101	San Francisco, CA 94102
cfepd@yolocounty.org	CityAttyProp65@sandiego.gov	Prop65@sfcityatty.org
The Honorable Nerro V. Evineen		
The Honorable Nora V. Frimann		
City of Santa Clara, City Attorney 200 E. Santa Clara Street, 16th Floor		
San Jose, CA 96113		
Proposition65notices@sanjoseca.gov		

MAIL SERVICE LIST

The Honorable Robert Priscaro	The Honorable Todd Riebe	The Honorable Michael L. Ramsey
Alpine County, District Attorney	Amador County, District Attorney	Butte County, District Attorney
P.O. Box 248	708 Court Street, #202	25 County Center Drive - Administrative Building
Markleeville, CA 96120	Jackson, CA 95642	Oroville, CA 95965
The Honorable Brenden Farrell	The Honorable Katherine Micks	The Honorable Dwayne Stewart Glenn
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The Honorable Jason Anderson	The Honorable Stephen M. Wagstaffe	The Honorable Stephanie A. Bridgett
San Bernardino County, District Attorney	San Mateo County, District Attorney	Shasta County, District Attorney
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Sierra County, District Attorney	Siskiyou County, District Attorney	Solano County, District Attorney
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Downieville, CA 95936	Yreka, CA 96097	Fairfield, CA 94533
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Stanislaus County, District Attorney	Sutter County, District Attorney	Tehama County, District Attorney
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P.O. Box 310	2 S. Green St.	215 Fifth Street, Suite 152
Weaverville, CA 96093	Sonora, CA 95370	Marysville, CA 95901
The Honorable Mike Feuer City of Los Angeles, City Attorney 200 N. Main Street Los Angeles, CA 90012		

EXHIBIT 4



ATTORNEYS AT LAW

Tel: 619-629-0527 noam@entornolaw.com craig@entornolaw.com jake@entornolaw.com janani@entornolaw.com

225 Broadway, Suite 1900 San Diego, CA 92101

August 16, 2024

<u>Via Certified Mail:</u>		
Markwins Beauty Brands, Inc.	Current Chief Executive Officer	
c/o John Chen	Markwins Beauty Brands, Inc.	
22067 Ferrero Parkway	c/o Lina Chen	
City of Industry, CA 91789	22067 Ferrero Parkway	
	City of Industry, CA 91789	
Target Corporation	Current Chief Executive Officer	
c/o C T Corporation System	Target Corporation	
330 N Brand Blvd.	c/o Brian C. Cornell	
Glendale, CA 91203	1000 Nicollet Mall	
	Minneapolis, MN 55403	

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To Whom It May Concern:

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The specific type of product that is causing exposures in violation of Proposition 65 is liquid foundation including but not limited to:

	Product Name	Manufacturer	Distributor/Retailer
1.	Black Radiance Color Perfect	Markwins Beauty	Target Corporation
	Liquid Makeup Foundation	Brands, Inc.	

The routes of exposure for the violations include dermal absorption by consumers. These exposures occur through the reasonably foreseeable use of the product. The sales of this product have been occurring since at least July 2024, are continuing to this day and will continue to occur as long as the product subject to this notice is sold to and used by consumers. Proposition 65 requires that a clear and reasonable warning is provided with these products regarding the exposures to DEA caused by ordinary use of the product. The Parties are in violation of Proposition 65 by failing to provide such warning to consumers and as a result of the sales of this product, exposures to DEA have been occurring without proper warnings.

Pursuant to Proposition 65, notice and intent to sue shall be provided to violators 60days before filing a complaint. This letter provides notice of the alleged violation to the parties listed above and the appropriate governmental authorities. A summary of Proposition 65 is attached.

EHA identifies Fred Duran as a responsible individual within the entity, 12245 Carmel Vista Road, Unit 193, 92130; 915-312-2577. Mr. Duran requests all communications be sent to EHA's attorneys.

If you have any questions or wish to discuss any of the above, please contact me at jake@entornolaw.com and include clerks@entornolaw.com in the email.

ENTORNO LAW, LLP

Jala Julie

Jake Schulte

Noam Glick Craig M. Nicholas Janani Natarajan

Enclosures

CERTIFICATE OF MERIT

I, Jake Schulte, hereby declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged the parties identified in the notice have violated Health 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 listedchemical that is the subject of the action.

4. Based on the information obtained through those consultations, and on all other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for the private action" means that the information provides a credible basis that all elements of the plaintiffs' case can be established andthe 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 factualinformation 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 withand relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

Dated: August 16, 2024

Jala Jak He

Jake Schulte, Attorney at Law

CERTIFICATE OF SERVICE

I, Gayatri Bhanot, declare that I am over the age of 18 years, and am not a party to the within action. I am employed in the County of San Diego, California, where the mailing occurs; and my business address is 225 Broadway, 19th Floor, San Diego, California 92101.

On August 16, 2024, I served the following documents: (1) 60-DAY NOTICE OF VIOLATION SENT IN COMPLIANCE WITH HEALTH & SAFETY CODE SECTION 25249.7(d); (2) CERTIFICATE OF MERIT; (3) PROPOSITION 65: A SUMMARY; and (4) **CERTIFICATE OF MERIT ATTACHMENT (served only on the Attorney General)** on the parties listed below by placing a true and correct copy thereof in a sealed envelope, addressed to each party and depositing it at my business address with the U.S. Postal Service for delivery by Certified Mail with the postage thereon fully prepaid:

Via Certified Mail		
Markwins Beauty Brands, Inc.	Current Chief Executive Officer	
c/o John Chen	Markwins Beauty Brands, Inc.	
22067 Ferrero Parkway	c/o Lina Chen	
City of Industry, CA 91789	22067 Ferrero Parkway	
	City of Industry, CA 91789	
Target Corporation	Current Chief Executive Officer	
c/o C T Corporation System	Target Corporation	
330 N Brand Blvd.	c/o Brian C. Cornell	
Glendale, CA 91203	1000 Nicollet Mall	
	Minneapolis, MN 55403	

On August 16, 2024, I served the California Attorney General (via website Portal) by uploading a trueand correct copy thereof as a PDF file via the California Attorney General's website.

On August 16, 2024, I transmitted via electronic mail the above-listed documents to the electronic mail addresses of the City and/or District Attorneys who have specifically authorized e-mail serviceand the authorization appears on the Attorney General's web site.

See Attached Service List

On August 16, 2024, I served the following persons and/or entities at the last known address by placinga true and correct copy thereof in a sealed envelope and depositing it at my business address with the U.S.Postal Service for delivery with the postage thereon fully prepaid, and addressed as follows:

See Attached Service List

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

Executed on August 16, 2024, at San Diego, California.

Gayatri Bhanot Gayatri Bhanot

APPENDIX A

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

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

FOR INFORMATION CONCERNING THE BASIS FOR THE ALLEGATIONS IN THE NOTICE RELATED TO YOUR BUSINESS, CONTACT THE PERSON IDENTIFIED ON THE NOTICE.

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

WHAT DOES PROPOSITION 65 REQUIRE?

The "Proposition 65 List." Under Proposition 65, the lead agency (OEHHA) publishes a list of chemicals that are known to the State of California to cause cancer and/or reproductive toxicity. Chemicals are placed on the Proposition 65 list if they are known to cause cancer and/or birth defects or other reproductive harm, such as damage to

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.

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

Only those chemicals that are on the list are regulated under Proposition 65. Businesses that produce, use, release or otherwise engage in activities involving listed chemicals must comply with the following:

Clear and reasonable warnings. A business is required to warn a person before "knowingly and intentionally" exposing that person to a listed chemical unless an exemption applies. The warning given must be "clear and reasonable." This means that the warning must: (1) clearly make known that the chemical involved is known to cause cancer, or birth defects or other reproductive harm; and (2) be given in such a way that it will effectively reach the person before he or she is exposed to that chemical. Some exposures are exempt from the warning requirement under certain circumstances discussed below.

Prohibition from discharges into drinking water. A business must not knowingly discharge or release a listed chemical into water or onto land where it passes or probably will pass into a source of drinking water. Some discharges are exempt from this requirement under certain circumstances discussed below.

DOES PROPOSITION 65 PROVIDE ANY EXEMPTIONS?

Yes. You should consult the current version of the statute and regulations (http://www.oehha.ca.gov/prop65/law/index.html) to determine all applicable exemptions, the most common of which are the following:

Grace Period. Proposition 65 warning requirements do not apply until 12 months after the chemical has been listed. The Proposition 65 discharge prohibition does not apply to a discharge or release of a chemical that takes place less than 20 months after the listing of the chemical.

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

Businesses with nine or fewer employees. Neither the warning requirement nor the discharge prohibition applies to a business that employs a total of nine or fewer employees. This includes all employees, not just those present in California.

Exposures that pose no significant risk of cancer. For chemicals that are listed under Proposition 65 as known to the State to cause cancer, a warning is not required if the business causing the exposure can demonstrate that the exposure occurs at a level that poses "no significant risk." This means that the exposure is calculated to result in not more than one excess case of cancer in 100,000 individuals exposed over a 70-year lifetime. The Proposition 65 regulations identify specific "No Significant Risk Levels" (NSRLs) for many listed carcinogens. Exposures below these levels are exempt from the warning requirement. See OEHHA's website at:

http://www.oehha.ca.gov/prop65/getNSRLs.html for a list of NSRLs, and Section 25701 *et seq.* of the regulations for information concerning how these levels are calculated.

Exposures that will produce no observable reproductive effect at 1,000 times the level in question. For chemicals known to the State to cause reproductive toxicity, a warning is not required if the business causing the exposure can demonstrate that the exposure will produce no observable effect, even at 1,000 times the level in question. In other words, the level of exposure must be below the "no observable effect level" divided by 1,000. This number is known as the Maximum Allowable Dose Level (MADL). See OEHHA's website at: http://www.oehha.ca.gov/prop65/getNSRLs.html for a list of MADLs, and Section 25801 *et seq.* of the regulations for information concerning how these levels are calculated.

Exposures to Naturally Occurring Chemicals in Food. Certain exposures to chemicals that naturally occur in foods (i.e., that do not result from any known human activity, including activity by someone other than the person causing the exposure) are exempt from the warning requirements of the law. If the chemical is a contaminant² it must be reduced to the lowest level feasible. Regulations explaining this exemption can be found in Section 25501.

Discharges that do not result in a "significant amount" of the listed chemical entering any source of drinking water. The prohibition from discharges into drinking water does not apply if the discharger is able to demonstrate that a "significant amount" of the listed chemical has not, does not, or will not pass into or probably pass into a source of drinking water, and that the discharge complies with all other applicable laws, regulations, permits, requirements, or orders. A "significant amount" means any detectable amount, except an amount that would meet the "no significant risk" level for chemicals that cause cancer or that is 1,000 times below the "no observable effect" level for chemicals that cause reproductive toxicity, if an individual were exposed to that amount in drinking water.

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 Title 27 and sections 3100-3103 of Title 11. A private party may not pursue an independent enforcement action under Proposition 65 if one of the governmental officials noted above initiates an enforcement action within sixty days of the notice.

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

A private party may not file an enforcement action based on certain exposures if the alleged violator meets specific conditions. For the following types of exposures, the Act provides an opportunity for the business to correct the alleged violation:

- An exposure to alcoholic beverages that are consumed on the alleged violator's premises to the extent onsite consumption is permitted by law;
- An exposure to a Proposition 65 listed chemical in a food or beverage prepared and sold on the alleged violator's premises that is primarily intended for immediate consumption on- or off-premises. This only applies if the chemical was not intentionally added to the food, and was formed by cooking or similar preparation of food or beverage components necessary to render the food or beverage palatable or to avoid microbiological contamination;
- An exposure to environmental tobacco smoke caused by entry of persons (other than employees) on premises owned or operated by the alleged violator where smoking is permitted at any location on the premises;
- An exposure to listed chemicals in engine exhaust, to the extent the exposure occurs inside a facility owned or operated by the alleged violator and primarily intended for parking non-commercial vehicles.

If a private party alleges that a violation occurred based on one of the exposures described above, the private party must first provide the alleged violator a notice of special compliance procedure and proof of compliance form.

A copy of the notice of special compliance procedure and proof of compliance form is included in Appendix B and can be downloaded from OEHHA's website at: http://oehha.ca.gov/prop65/law/p65law72003.html.

FOR FURTHER INFORMATION ABOUT THE LAW OR REGULATIONS...

Contact the Office of Environmental Health Hazard Assessment's Proposition 65 Implementation Office at (916) 445-6900 or via e-mail at P65Public.Comments@oehha.ca.gov.

Revised: May 2017

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Sections 25249.5, 25249.6, 25249.7, 25249.9, 25249.10 and 25249.11, Health and Safety Code.

E-Mail Service List

	1	
The Honorable Pamela Price	The Honorable Barbara Yook	The Honorable Stacey Grassini
Alameda County, District Attorney	Calaveras County, 891 Mountain Ranch Rd.	Contra Costa County, Deputy District Attorney 900 Ward Street
7677 Oakport Street, Suite 650 Oakland, CA 94621	San Andreas, CA 95249 Phone: 209-754-6330	Martinez, CA 94553
CEPDProp65@acgov.org	Prop65Env@co.calaveras.ca.us	sgrassini@contracostada.org
	* 0	• •
The Honorable James Clinchard	The Honorable Lisa A. Smittcamp,	The Honorable Thomas L. Hardy Inyo County, District Attorney
El Dorado County, Assistant District Attorney 778 Pacific Street	Fresno County, District Attorney 2100 Tulare Street	168 North Edwards Street
Placerville, CA 95667	Fresno, CA 93721	Independence, CA 93526
EDCDAPROP65@edcda.us	Phone: (559) 600-3141	Phone: 760.878.0282
EDEDAI KOI 05@ededa.us	consumerprotection@fresnocountyca.gov	inyoda@inyocounty.us
The Honorable Michelle Latimer	The Honorable Lori Frugoli	The Honorable Walter W. Wall,
Lassen County, Program Coordinator	Marin County, District Attorney	Mariposa County, District Attorney
220 S. Lassen Street	3501 Civic Center Drive, Room 145	P.O. Box 730
Susanville, CA 96130	San Rafael, CA 94903	Mariposa, CA 95338
Phone: 530-251-8284	consumer@marincounty.gov	Phone: (209) 966-3626
mlatimer@co.lassen.ca.us	consumer (official method in 17.50)	mcda@mariposacounty.org
		· · · ·
The Honorable Kimberly Lewis,	The Honorable Jeannine M. Pacioni,	The Honorable Allison Haley
Merced County, District Attorney	Monterey County, District Attorney	Napa County, District Attorney
550 West Main Street	1200 Aguajito Road	1127 First Street, Suite C
Merced, CA 95340 Phone: (200) 285 7381	Monterey, CA 93940 Bron 65DA Gao monterey on un	Napa, CA 94559
Phone: (209) 385-7381 Prop65@countyofmerced.com	Prop65DA@co.monterey.ca.us	CEPD@countyofnapa.org
Prop65@countyofmerced.com The Honorable Clifford H. Newell	The Honorable Morgan Briggs Gire	The Honorabble David Hollister
Nevada County, District Attorney	Placer County, District Attorney	Plumas County, District Attorney
201 Commercial Street	10810 Justice Center Drive	520 Main St.
Nevada City , CA 95959	Roseville, CA 95678	Quincy, CA 95971
DA.Prop65@co.nevada.ca.us	Phone: 916-543-8000	Phone: (530) 283-6303
Divid repositional valuea.as	prop65@placer.ca.gov	davidhollister@countyofplumas.com
The Honorable Paul E. Zellerbach	The Honorable Anne Marie Schubert	The Honorable Summer Stephan
Riverside County, District Attorney	Sacramento County, District Attorney 901 G Street	San Diego County, District Attorney
3072 Orange Street Riverside, CA 92501	Sacramento, CA 95814	330 West Broadway San Diego, CA 92101
Prop65@rivcoda.org	Prop65@sacda.org	SanDiegoDAProp65@sdcda.org
Topos@nvcoda.org	1 Topo5@sacda.org	SanDiegoDAi Topo5@sucua.org
The Honorable Alexander Grayner	The Honorable Tori Verber Salazar	The Honorable Eric J. Dobroth
San Francisco County, Asst. District Attorney	San Joaquin County, District Attorney	San Luis Obispo County, Deputy District Attorney
350 Rhode Island Street	222 E. Weber Avenue, Room 202	County Government Center Annex, 4th Floor
San Francisco, CA 94103	Stockton, CA 95202	San Luis Obispo, CA 93408
alexandra.grayner@sfgov.org	DAConsumer.Environmental@sjcda.org	Phone: 805-781-5800
		edobroth@co.slo.ca.us
The Honorable Christopher Dalbey	The Honorable Bud Porter	The Honorable Jeffrey S. Rosell
Santa Barbara County, Deputy District Attorney	Santa Clara County, Supervising Deputy District	Santa Cruz County, District Attorney
1112 Santa Barbara St.	Attorney 70 W	701 Ocean Street
Santa Barbara, CA 93101	Hedding St San Jose, CA 95110	Santa Cruz, CA 95060
Phone: 805-568-2300	EPU@da.sccgov.org	Phone: 831-454-2400
DAProp65@co.santa-barbara.ca.us		Prop65DA@santacruzcounty.us
The Honorable Jill Ravitch	The Honorable Phillip J. Cline	The Honorable Gregory D. Totten
Sonoma County, District Attorney	Tulare County, District Attorney	Ventura County, District Attorney
600 Administration Drive	221 S Mooney Blvd	800 S Victoria Ave
Santa Rosa, CA 95403 Jeannie.Barnes@sonoma-	Visalia, CA 95370	Ventura, CA 93009 daspecialops@ventura.org
county.org	Prop65@co.tulare.ca.us	
The Honorable Jeff W. Resig	The Honorable Mark Ankcorn	The Honorable Henry Lifton
Yolo County, District Attorney	City of San Diego, Deputy City Attorney 1200 Third	City of San Francisco, Deputy City Attorney
301 Second Street	Avenue	1390 Market Street, 7th Floor
Woodland, CA 95695	San Diego, CA 92101	San Francisco, CA 94102
cfepd@yolocounty.org	CityAttyProp65@sandiego.gov	Prop65@sfcityatty.org
The Honorable Nerro V. Evineen		
The Honorable Nora V. Frimann		
City of Santa Clara, City Attorney 200 E. Santa Clara Street, 16th Floor		
San Jose, CA 96113		
Proposition65notices@sanjoseca.gov		

MAIL SERVICE LIST

The Honorable Robert Priscaro	The Honorable Todd Riebe	The Honorable Michael L. Ramsey
Alpine County, District Attorney	Amador County, District Attorney	Butte County, District Attorney
P.O. Box 248	708 Court Street, #202	25 County Center Drive - Administrative Building
Markleeville, CA 96120	Jackson, CA 95642	Oroville, CA 95965
The Honorable Brenden Farrell	The Honorable Katherine Micks	The Honorable Dwayne Stewart Glenn
Colusa County, District Attorney	Del Norte County, District Attorney	County, District Attorney
310 6 th Street	450 H Street, Room 171	P.O. Box 430
Colusa, CA 95932	Crescent City, CA 95531	Willows, CA 95988
The Honorable Stacey Eads Humboldt	The Honorable George Marquez	The Honorable Cynthia Zimmer
County, District Attorney	Imperial County, District Attorney	Kern County, District Attorney
825 5th Street	940 West Main Street, Suite 102	1215 Truxtun Avenue
Eureka, CA 95501	El Centro, CA 92243	Bakersfield, CA 93301
The Honorable Sarah Hacker	The Honorable Susan Krones	The Honorable George Gascon
Kings County, District Attorney	Lake County, District Attorney	Los Angeles County, District Attorney
1400 West Lacey Blvd.	255 N. Forbes Street	211 W. Temple Street, Suite 1200
Hanford, CA 93230	Lakeport, CA 95453	Los Angeles, CA 90012
The Honorable Sally O. Moreno,	The Honorable C. David Eyster	The Honorable Cynthia Campbell
District Attorney	Mendocino County, District Attorney	Modoc County, District Attorney
300 South G Street, Suite 300	P.O. Box 1000	204 S. Court Street, Room 202
Madera, CA 93637	Ukiah, CA 95482	Alturas, CA 96101
The Honorable David Anderson	The Honorable Todd Spitzer	The Honorable Joel Buckingham
Mono County, District Attorney	Orange County, District Attorney	San Benito County, District Attorney
P.O. Box 2053	300 N. Flower Street	419 4th Street
Mammoth Lakes, CA 93546	Santa Ana, CA 92703	Hollister, CA 95023
The Honorable Jason Anderson	The Honorable Stephen M. Wagstaffe	The Honorable Stephanie A. Bridgett
San Bernardino County, District Attorney	San Mateo County, District Attorney	Shasta County, District Attorney
303 W. Third Street	400 County Center, Third Floor	1355 West Street
San Bernardino, CA 92415	Redwood City, CA 94063	Redding, CA 96001
The Honorable Sandra Groven	The Honorable James Kirk Andrus	The Honorable Krishna A. Abrams
Sierra County, District Attorney	Siskiyou County, District Attorney	Solano County, District Attorney
100 Courthouse Square	P.O. Box 986	675 Texas Street, Suite 4500
Downieville, CA 95936	Yreka, CA 96097	Fairfield, CA 94533
The Honorable Jeff Laugero	The Honorable Jennifer Dupre	The Honorable Matthew Rogers
Stanislaus County, District Attorney	Sutter County, District Attorney	Tehama County, District Attorney
832 12th Street, Suite 300	463 2nd Street, Suite 102	P.O. Box 519
Modesto, CA 95353	Yuba City, CA 95991	Red Bluff, CA 96080
The Honorable David Brady	The Honorable Cassandra Jenecke	The Honorable Clint Curry
Trinity County, District Attorney	Tuolumne County, District Attorney	Yuba County, District Attorney
P.O. Box 310	2 S. Green St.	215 Fifth Street, Suite 152
Weaverville, CA 96093	Sonora, CA 95370	Marysville, CA 95901
The Honorable Mike Feuer City of Los Angeles, City Attorney 200 N. Main Street Los Angeles, CA 90012		

EXHIBIT 5



ATTORNEYS AT LAW

Tel: 619-629-0527 noam@entornolaw.com craig@entornolaw.com jake@entornolaw.com janani@entornolaw.com 225 Broadway, Suite 1900 San Diego, CA 92101

July 24, 2024

Via Certified Mail:	
Make-Up Art Cosmetics (U.S.), Inc.	Current Chief Executive Officer
c/o CSC – Lawyers Incorporating Service	Make-Up Art Cosmetics (U.S.), Inc.
2710 Gateway Oaks Drive	c/o Jane Hertzmark Hudis
Sacramento, CA 95833	7 Corporate Center Drive
	Melville, NY 11747
Ulta Salon, Cosmetics & Fragrance, Inc.	Current Chief Executive Officer
c/o CSC – Lawyers Incorporating Service	Ulta Salon, Cosmetics & Fragrance, Inc.
2710 Gateway Oaks Drive	c/o David Kimbell
Sacramento, CA 95833	1000 Remington Blvd, Suite 120
	Bolingbrook, IL 60440

Re: Proposition 65 Notice of Violation

This notice amends the original notice of violation AG No. 2024-01513. This notice serves CEOs for all entities listed.

To Whom It May Concern:

We represent Environmental Health Advocates, Inc., an organization in the State of California acting in the interest of the general public. This letter serves as notice that the parties listed above are in violation of Proposition 65, the Safe Drinking Water and Toxic Enforcement Act, commencing with section 25249.5 of the Health and Safety Code ("Proposition 65"). In particular, the violations alleged by this notice consist of types of harm that may potentially result from exposures to the toxic chemical Diethanolamine ("DEA"). This chemical was listed as a carcinogen on June 22, 2012.

The specific type of product that is causing exposures in violation of Proposition 65 is foundation including but not limited to:

	Product Name	Manufacturer	Distributor/Retailer
1.	Studio Radiance Face And	Make-Up Art Cosmetics	Ulta Salon, Cosmetics, &
	Body Radiant Sheer	(U.S.), Inc.	Fragrance, Inc.
	Foundation		

The routes of exposure for the violations include dermal absorption by consumers. These exposures occur through the reasonably foreseeable use of the product. The sales of this product have been occurring since at least February 2024, are continuing to this day and will continue to occur as long as the product subject to this notice is sold to and used by consumers.

Proposition 65 requires that a clear and reasonable warning is provided with these products regarding the exposures to DEA caused by ordinary use of the product. The Parties are in violation of Proposition 65 by failing to provide such warning to consumers and as a result of the sales of this product, exposures to DEA have been occurring without proper warnings.

Pursuant to Proposition 65, notice and intent to sue shall be provided to violators 60days before filing a complaint. This letter provides notice of the alleged violation to the parties listed above and the appropriate governmental authorities. A summary of Proposition 65 is attached.

EHA identifies Fred Duran as a responsible individual within the entity, 12245 Carmel Vista Road, Unit 193, 92130; 915-312-2577. Mr. Duran requests all communications be sent to EHA's attorneys.

If you have any questions or wish to discuss any of the above, please contact me at noam@entornolaw.com and include clerks@entornolaw.com in the email.

Sincerely,

ENTORNO LAW LLP.

Noan Slit

Noam Glick

Craig M. Nicholas Jake Schulte Janani Natarajan

CERTIFICATE OF MERIT

I, Noam Glick, hereby declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged the parties identified in the notice have violated Health 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: July 24, 2024

Noan Slich

Noam Glick, Attorney at Law

CERTIFICATE OF SERVICE

I, Madeline Walsh, declare that I am over the age of 18 years, and am not a party to the within action. I am employed in the County of San Diego, California, where the mailing occurs; and my business address is 225 Broadway, 19th Floor, San Diego, California 92101.

On July 24, 2024, I served the following documents: (1) 60-DAY NOTICE OF VIOLATION SENT IN COMPLIANCE WITH HEALTH & SAFETY CODE SECTION 25249.7(d); (2) **CERTIFICATE OF MERIT; (3) PROPOSITION 65: A SUMMARY; and (4) CERTIFICATE** OF MERIT ATTACHMENT (served only on the Attorney General) on the parties listed below by placing a true and correct copy thereof in a sealed envelope, addressed to each party and depositing it at my business address with the U.S. Postal Service for delivery by Certified Mail with the postage thereon fully prepaid:

<u>Via Certified Mail</u>		
Make-Up Art Cosmetics (U.S.), Inc.	Current Chief Executive Officer	
c/o CSC – Lawyers Incorporating Service	Make-Up Art Cosmetics (U.S.), Inc.	
2710 Gateway Oaks Drive	c/o Jane Hertzmark Hudis	
Sacramento, CA 95833	7 Corporate Center Drive	
	Melville, NY 11747	
Ulta Salon, Cosmetics & Fragrance, Inc.	Current Chief Executive Officer	
c/o CSC – Lawyers Incorporating Service	Ulta Salon, Cosmetics & Fragrance, Inc.	
2710 Gateway Oaks Drive	c/o David Kimbell	
Sacramento, CA 95833	1000 Remington Blvd, Suite 120	
	Bolingbrook, IL 60440	

On July 24, 2024, I served the California Attorney General (via website Portal) by uploading a trueand correct copy thereof as a PDF file via the California Attorney General's website.

On July 24, 2024, I transmitted via electronic mail the above-listed documents to the electronic mail addresses of the City and/or District Attorneys who have specifically authorized e-mail serviceand the authorization appears on the Attorney General's web site.

See Attached Service List

On July 24, 2024, I served the following persons and/or entities at the last known address by placing true and correct copy thereof in a sealed envelope and depositing it at my business address with the U.S.Postal Service for delivery with the postage thereon fully prepaid, and addressed as follows:

See Attached Service List

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

Executed on July 24, 2024, at San Diego, California.

<u>Madeline Walsh</u> Madeline Walsh

APPENDIX A

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

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

FOR INFORMATION CONCERNING THE BASIS FOR THE ALLEGATIONS IN THE NOTICE RELATED TO YOUR BUSINESS, CONTACT THE PERSON IDENTIFIED ON THE NOTICE.

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

WHAT DOES PROPOSITION 65 REQUIRE?

The "Proposition 65 List." Under Proposition 65, the lead agency (OEHHA) publishes a list of chemicals that are known to the State of California to cause cancer and/or reproductive toxicity. Chemicals are placed on the Proposition 65 list if they are known to cause cancer and/or birth defects or other reproductive harm, such as damage to

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.

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

Only those chemicals that are on the list are regulated under Proposition 65. Businesses that produce, use, release or otherwise engage in activities involving listed chemicals must comply with the following:

Clear and reasonable warnings. A business is required to warn a person before "knowingly and intentionally" exposing that person to a listed chemical unless an exemption applies. The warning given must be "clear and reasonable." This means that the warning must: (1) clearly make known that the chemical involved is known to cause cancer, or birth defects or other reproductive harm; and (2) be given in such a way that it will effectively reach the person before he or she is exposed to that chemical. Some exposures are exempt from the warning requirement under certain circumstances discussed below.

Prohibition from discharges into drinking water. A business must not knowingly discharge or release a listed chemical into water or onto land where it passes or probably will pass into a source of drinking water. Some discharges are exempt from this requirement under certain circumstances discussed below.

DOES PROPOSITION 65 PROVIDE ANY EXEMPTIONS?

Yes. You should consult the current version of the statute and regulations (http://www.oehha.ca.gov/prop65/law/index.html) to determine all applicable exemptions, the most common of which are the following:

Grace Period. Proposition 65 warning requirements do not apply until 12 months after the chemical has been listed. The Proposition 65 discharge prohibition does not apply to a discharge or release of a chemical that takes place less than 20 months after the listing of the chemical.

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

Businesses with nine or fewer employees. Neither the warning requirement nor the discharge prohibition applies to a business that employs a total of nine or fewer employees. This includes all employees, not just those present in California.

Exposures that pose no significant risk of cancer. For chemicals that are listed under Proposition 65 as known to the State to cause cancer, a warning is not required if the business causing the exposure can demonstrate that the exposure occurs at a level that poses "no significant risk." This means that the exposure is calculated to result in not more than one excess case of cancer in 100,000 individuals exposed over a 70-year lifetime. The Proposition 65 regulations identify specific "No Significant Risk Levels" (NSRLs) for many listed carcinogens. Exposures below these levels are exempt from the warning requirement. See OEHHA's website at:

http://www.oehha.ca.gov/prop65/getNSRLs.html for a list of NSRLs, and Section 25701 *et seq.* of the regulations for information concerning how these levels are calculated.

Exposures that will produce no observable reproductive effect at 1,000 times the level in question. For chemicals known to the State to cause reproductive toxicity, a warning is not required if the business causing the exposure can demonstrate that the exposure will produce no observable effect, even at 1,000 times the level in question. In other words, the level of exposure must be below the "no observable effect level" divided by 1,000. This number is known as the Maximum Allowable Dose Level (MADL). See OEHHA's website at: http://www.oehha.ca.gov/prop65/getNSRLs.html for a list of MADLs, and Section 25801 *et seq.* of the regulations for information concerning how these levels are calculated.

Exposures to Naturally Occurring Chemicals in Food. Certain exposures to chemicals that naturally occur in foods (i.e., that do not result from any known human activity, including activity by someone other than the person causing the exposure) are exempt from the warning requirements of the law. If the chemical is a contaminant² it must be reduced to the lowest level feasible. Regulations explaining this exemption can be found in Section 25501.

Discharges that do not result in a "significant amount" of the listed chemical entering any source of drinking water. The prohibition from discharges into drinking water does not apply if the discharger is able to demonstrate that a "significant amount" of the listed chemical has not, does not, or will not pass into or probably pass into a source of drinking water, and that the discharge complies with all other applicable laws, regulations, permits, requirements, or orders. A "significant amount" means any detectable amount, except an amount that would meet the "no significant risk" level for chemicals that cause cancer or that is 1,000 times below the "no observable effect" level for chemicals that cause reproductive toxicity, if an individual were exposed to that amount in drinking water.

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 Title 27 and sections 3100-3103 of Title 11. A private party may not pursue an independent enforcement action under Proposition 65 if one of the governmental officials noted above initiates an enforcement action within sixty days of the notice.

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

A private party may not file an enforcement action based on certain exposures if the alleged violator meets specific conditions. For the following types of exposures, the Act provides an opportunity for the business to correct the alleged violation:

- An exposure to alcoholic beverages that are consumed on the alleged violator's premises to the extent onsite consumption is permitted by law;
- An exposure to a Proposition 65 listed chemical in a food or beverage prepared and sold on the alleged violator's premises that is primarily intended for immediate consumption on- or off-premises. This only applies if the chemical was not intentionally added to the food, and was formed by cooking or similar preparation of food or beverage components necessary to render the food or beverage palatable or to avoid microbiological contamination;
- An exposure to environmental tobacco smoke caused by entry of persons (other than employees) on premises owned or operated by the alleged violator where smoking is permitted at any location on the premises;
- An exposure to listed chemicals in engine exhaust, to the extent the exposure occurs inside a facility owned or operated by the alleged violator and primarily intended for parking non-commercial vehicles.

If a private party alleges that a violation occurred based on one of the exposures described above, the private party must first provide the alleged violator a notice of special compliance procedure and proof of compliance form.

A copy of the notice of special compliance procedure and proof of compliance form is included in Appendix B and can be downloaded from OEHHA's website at: http://oehha.ca.gov/prop65/law/p65law72003.html.

FOR FURTHER INFORMATION ABOUT THE LAW OR REGULATIONS...

Contact the Office of Environmental Health Hazard Assessment's Proposition 65 Implementation Office at (916) 445-6900 or via e-mail at P65Public.Comments@oehha.ca.gov.

Revised: May 2017

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Sections 25249.5, 25249.6, 25249.7, 25249.9, 25249.10 and 25249.11, Health and Safety Code.

E-Mail Service List

The Honorable Pamela Price	The Honorable Barbara Yook	The Honorable Stacey Grassini
Alameda County, District Attorney	Calaveras County, 891 Mountain Ranch Rd.	Contra Costa County, Deputy District Attorney
7677 Oakport Street, Suite 650	San Andreas, CA 95249	900 Ward Street
Oakland, CA 94621	Phone: 209-754-6330	Martinez, CA 94553
CEPDProp65@acgov.org	Prop65Env@co.calaveras.ca.us	sgrassini@contracostada.org
The Honorable James Clinchard	The Honorable Lisa A. Smittcamp,	The Honorable Thomas L. Hardy
El Dorado County, Assistant District Attorney	Fresno County, District Attorney	Inyo County, District Attorney
778 Pacific Street	2100 Tulare Street	168 North Edwards Street
Placerville, CA 95667	Fresno, CA 93721	Independence, CA 93526
EDCDAPROP65@edcda.us	Phone: (559) 600-3141	Phone: 760.878.0282
Ŭ	consumerprotection@fresnocountyca.gov	inyoda@inyocounty.us
The Honorable Michelle Latimer	The Honorable Lori Frugoli	The Honorable Walter W. Wall
Lassen County, Program Coordinator	Marin County, District Attorney	Mariposa County, District Attorney
220 S. Lassen Street	3501 Civic Center Drive, Room 145	P.O. Box 730
Susanville, CA 96130	San Rafael, CA 94903	Mariposa, CA 95338
Phone: 530-251-8284	consumer@marincounty.gov	Phone: (209) 966-3626
mlatimer@co.lassen.ca.us	0 70	mcda@mariposacounty.org
		· · · ·
The Honorable Kimberly Lewis,	The Honorable Jeannine M. Pacioni,	The Honorable Allison Haley
Merced County, District Attorney	Monterey County, District Attorney	Napa County, District Attorney
550 West Main Street	1200 Aguajito Road	1127 First Street, Suite C
Merced, CA 95340	Monterey, CA 93940	Napa, CA 94559
Phone: (209) 385-7381	Prop65DA@co.monterey.ca.us	CEPD@countyofnapa.org
Prop65@countyofmerced.com		
The Honorable Clifford H. Newell	The Honorable Morgan Briggs Gire	The Honorabble David Hollister
Nevada County, District Attorney	Placer County, District Attorney	Plumas County, District Attorney
201 Commercial Street	10810 Justice Center Drive	520 Main St.
Nevada City, CA 95959	Roseville, CA 95678	Quincy, CA 95971
DA.Prop65@co.nevada.ca.us	Phone: 916-543-8000	Phone: (530) 283-6303
	prop65@placer.ca.gov	davidhollister@countyofplumas.com
The Honorable Paul E. Zellerbach	The Honorable Anne Marie Schubert	The Honorable Summer Stephan
Riverside County, District Attorney	Sacramento County, District Attorney	San Diego County, District Attorney
3072 Orange Street	901 G Street	330 West Broadway
Riverside, CA 92501	Sacramento, CA 95814	San Diego, CA 92101
Prop65@rivcoda.org	Prop65@sacda.org	SanDiegoDAProp65@sdcda.org
The Honorable Alexander Grayner	The Honorable Tori Verber Salazar	The Honorable Eric J. Dobroth
San Francisco County, Asst. District Attorney	San Joaquin County, District Attorney	San Luis Obispo County, Deputy District Attorney
350 Rhode Island Street	222 E. Weber Avenue, Room 202	County Government Center Annex, 4th Floor
San Francisco, CA 94103	Stockton, CA 95202	San Luis Obispo, CA 93408
alexandra.grayner@sfgov.org	DAConsumer.Environmental@sjcda.org	Phone: 805-781-5800
		edobroth@co.slo.ca.us
The Honorable Christopher Dalbey	The Honorable Bud Porter	The Honorable Jeffrey S. Rosell
Santa Barbara County, Deputy District Attorney	Santa Clara County, Supervising Deputy District	Santa Cruz County, District Attorney
1112 Santa Barbara St.	Attorney 70 W	701 Ocean Street
Santa Barbara, CA 93101	Hedding St San Jose, CA 95110	Santa Cruz, CA 95060
Phone: 805-568-2300	EPU@da.sccgov.org	Phone: 831-454-2400
DAProp65@co.santa-barbara.ca.us		Prop65DA@santacruzcounty.us
The Honorable Jill Ravitch	The Honorable Phillip J. Cline	The Honorable Gregory D. Totten
Sonoma County, District Attorney	Tulare County, District Attorney	Ventura County, District Attorney
600 Administration Drive	221 S Mooney Blvd	800 S Victoria Ave
Santa Rosa, CA 95403 Jeannie.Barnes@sonoma-	Visalia, CA 95370	Ventura, CA 93009 daspecialops@ventura.org
county.org	Prop65@co.tulare.ca.us	
The Honorable Jeff W. Resig	The Honorable Mark Ankcorn	The Honorable Henry Lifton
Yolo County, District Attorney	City of San Diego, Deputy City Attorney 1200 Third	City of San Francisco, Deputy City Attorney
301 Second Street	Avenue	1390 Market Street, 7th Floor
Woodland, CA 95695	San Diego, CA 92101	San Francisco, CA 94102
cfepd@yolocounty.org	CityAttyProp65@sandiego.gov	Prop65@sfcityatty.org
	engring ropos insulatego.gov	1.0000000000000000000000000000000000000
The Honorable Nora V. Frimann		
City of Santa Clara, City Attorney		
200 E. Santa Clara Street, 16th Floor		
San Jose, CA 96113		
Proposition65notices@sanjoseca.gov		
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MAIL SERVICE LIST

The Honorable Robert Priscaro	The Honorable Todd Riebe	The Honorable Michael L. Ramsey
Alpine County, District Attorney	Amador County, District Attorney	Butte County, District Attorney
P.O. Box 248	708 Court Street, #202	25 County Center Drive - Administrative Building
Markleeville, CA 96120	Jackson, CA 95642	Oroville, CA 95965
The Honorable Brenden Farrell	The Honorable Katherine Micks	The Honorable Dwayne Stewart Glenn
Colusa County, District Attorney	Del Norte County, District Attorney	County, District Attorney
310 6 th Street	450 H Street, Room 171	P.O. Box 430
Colusa, CA 95932	Crescent City, CA 95531	Willows, CA 95988
The Honorable Stacey Eads Humboldt	The Honorable George Marquez	The Honorable Cynthia Zimmer
County, District Attorney	Imperial County, District Attorney	Kern County, District Attorney
825 5th Street	940 West Main Street, Suite 102	1215 Truxtun Avenue
Eureka, CA 95501	El Centro, CA 92243	Bakersfield, CA 93301
The Honorable Sarah Hacker	The Honorable Susan Krones	The Honorable George Gascon
Kings County, District Attorney	Lake County, District Attorney	Los Angeles County, District Attorney
1400 West Lacey Blvd.	255 N. Forbes Street	211 W. Temple Street, Suite 1200
Hanford, CA 93230	Lakeport, CA 95453	Los Angeles, CA 90012
The Honorable Sally O. Moreno,	The Honorable C. David Eyster	The Honorable Cynthia Campbell
District Attorney	Mendocino County, District Attorney	Modoc County, District Attorney
300 South G Street, Suite 300	P.O. Box 1000	204 S. Court Street, Room 202
Madera, CA 93637	Ukiah, CA 95482	Alturas, CA 96101
The Honorable David Anderson	The Honorable Todd Spitzer	The Honorable Joel Buckingham
Mono County, District Attorney	Orange County, District Attorney	San Benito County, District Attorney
P.O. Box 2053	300 N. Flower Street	419 4th Street
Mammoth Lakes, CA 93546	Santa Ana, CA 92703	Hollister, CA 95023
The Honorable Jason Anderson	The Honorable Stephen M. Wagstaffe	The Honorable Stephanie A. Bridgett
San Bernardino County, District Attorney	San Mateo County, District Attorney	Shasta County, District Attorney
303 W. Third Street	400 County Center, Third Floor	1355 West Street
San Bernardino, CA 92415	Redwood City, CA 94063	Redding, CA 96001
The Honorable Sandra Groven	The Honorable James Kirk Andrus	The Honorable Krishna A. Abrams
Sierra County, District Attorney	Siskiyou County, District Attorney	Solano County, District Attorney
100 Courthouse Square	P.O. Box 986	675 Texas Street, Suite 4500
Downieville, CA 95936	Yreka, CA 96097	Fairfield, CA 94533
The Honorable Jeff Laugero	The Honorable Jennifer Dupre	The Honorable Matthew Rogers
Stanislaus County, District Attorney	Sutter County, District Attorney	Tehama County, District Attorney
832 12th Street, Suite 300	463 2nd Street, Suite 102	P.O. Box 519
Modesto, CA 95353	Yuba City, CA 95991	Red Bluff, CA 96080
The Honorable David Brady	The Honorable Cassandra Jenecke	The Honorable Clint Curry
Trinity County, District Attorney	Tuolumne County, District Attorney	Yuba County, District Attorney
P.O. Box 310	2 S. Green St.	215 Fifth Street, Suite 152
Weaverville, CA 96093	Sonora, CA 95370	Marysville, CA 95901
The Honorable Mike Feuer City of Los Angeles, City Attorney 200 N. Main Street Los Angeles, CA 90012		