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February 16, 2026

SIXTY DAY NOTICE OF VIOLATION AND INTENT TO SUE FOR VIOLATIONS OF THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 ("PROPOSITION 65") ON BEHALF OF THE CENTER FOR AWARENESS OF RESPONSIBLE ENVIRONMENTAL SOLUTIONS

To: ConAgra Brands, Inc., directly and/or through their Registered Agents for Service of Process (collectively, "Alleged Violators"), The Office of the Attorney General of the State of California and Certain California District Attorneys, Certain California City Attorneys, and Certain Other Public Prosecutors (collectively, "Public Prosecutors").

From: Center for Awareness and Responsibility of Environmental Solutions ("CARES")

This 60-Day Notice of Violation ("Notice") is hereby served upon the Alleged Violators identified above for their failure to provide "clear and reasonable" warnings prior to exposing individuals in the State of California to carcinogens and/or reproductive toxins, as required by California Health & Safety Code Section 25249.6, as a result of unsafe levels of cadmium in their David Original Jumbo Salted and Roasted Sunflower Seeds, SKU # 026200461939 ("Product").

This Notice also is furnished to the Public Prosecutors, pursuant to, and in compliance with, California Health & Safety Code Section 25249.7(d) by The Center For Awareness and Responsibility of Environmental Solutions ("CARES" or "Claimant"), 1400 Pine Street, P.O. Box 640056, San Francisco, CA 94164 ((415) 213-2511). The Director of Programs for CARES, and its responsible person, is Veronica Eckstein, Ph.D., also at the same address and telephone number for CARES. CARES is represented by this law firm.

CARES is a California not-for-profit corporation committed to, among other things, fostering education regarding environmental risks, furthering awareness of such risks, effectuating responsible solutions to those risks which eliminate or minimize them, to the extent feasible, in accordance with applicable law, and supporting environmentally responsible practices.

Acting in furtherance of "the public interest," pursuant to California Health and Safety Code section §25249.7(d) this Notice is provided by this firm on behalf of CARES to the violators and to the public agencies identified above pursuant to California Health and Safety Code

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§25249.6, which provides that “[n]o person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to the [State of California] to cause cancer or reproductive toxicity without first giving clear and reasonable warning, to such individual, except as provided in Section 25249.10” (“Warning Requirement”).

By this Notice, Claimant notifies the alleged violators and the appropriate public enforcement agencies of the existence and ongoing nature of the violations and its intention to sue to remedy the violations upon the expiration of the sixty (60) day pre-suit notice requirement (as calculated for service of a document pursuant to California Code of Civil Procedure Section 1013)(“Effective Service Date”), unless public enforcement agencies have commenced and are diligently prosecuting an action to remedy the violation.

The bases upon which CARES identified the violations and threatened violations covered by this Notice include the following:

Product: The product that is the subject of this Notice is David Original Jumbo Salted and Roasted Sunflower Seeds, SKU # 026200461939, a “consumer product,” distributed and sold by Sprouts Farmers Market, LLC (“Product” or “Products”) throughout California.

Proposition 65 Authority: Proposition 65 is codified at California Health & Safety Code Chapter 6.6, Sections 25249.5 – 25249.14 (“The Safe Drinking Water And Toxic Enforcement Act Of 1986” (“Proposition 65”)). This Notice is served based upon violations of the “Warning Requirement” codified in California Health & Safety Code § 25249.6. Exposures in excess of permissible regulatory levels to the listed chemical as a result of the sale and marketing of the Products have been occurring without the Violators having complied with the Warning Requirement set forth in Section 25249.6. Without proper warnings regarding the toxic effects of exposures to the listed chemical resulting from the use of the Products, the public is denied the information necessary to make informed decisions on whether and/or how to eliminate (or reduce) the risk of exposure to the identified toxicant.

Listed Chemical: Cadmium.

Routes of Exposure: Oral, Ingestion.

Description of Exposure: The ordinary and intended use of the Product is as a source of food for human consumption, and it is marketed by the Violators as such. Neither the Product, nor any label, shelf tag, or posting at the store, provide any clear or reasonable Proposition 65 warning. The Product is directly ingested orally, and because it also is handled through direct contact with the skin and body, it additionally further results in hand-to-mouth contact, also resulting in oral ingestion.

Time Period of Exposure: The exposures have occurred continuously since at least October 21, 2025, through the present.

Types of Harm: Cancer, Birth Defects and Other Reproductive Harm.

Location of Violation: Statewide

Pursuant to Section 25249.7(d), Claimant is acting “in the public interest,” pursuant to Proposition 65. Claimant intends to bring an enforcement action against the Alleged Violators sixty (60) days after the Effective Service Date of this Notice, unless public enforcement agencies have commenced and are diligently prosecuting an action to remedy the violations.

CARES desires to have these ongoing violations rectified and is open to seeking a dialogue with the alleged violators respecting measures to do so.

These could include recalling the product, removing the product from the market, reformulating the product, and/or providing warnings.

Proposition 65 also authorizes a citizen enforcer to seek civil penalties, injunctive relief, and its attorneys’ and costs fees. Claimant intends to do so in this case.

A summary of Proposition 65 and its implementing regulations prepared by the Office of Environmental Health Hazard Assessment (“OEHHA”), the lead agency designated under Proposition 65 (“Proposition 65: A Summary”). For general or further information concerning the provisions of Proposition 65, please feel free to contact the Office of Environmental Health Hazard Assessment’s (OEHHA) Proposition 65 Implementation Office at (916) 445-6900.

CARES may be contacted by the violator only through its counsel, as follows:

Richard J. McNeil, Esq.
Reich Radcliffe & Hoover LLP
2030 Main Street, Suite 1300
Irvine, CA 92614
(949) 975-0512 (office)
(949) 230-2839 (facsimile)
rjm@reichradcliffe.com (email)

Pursuant to Proposition 65, any settlement, civil complaint or substantive court orders in this matter shall be submitted/uploaded onto the state Attorney General’s portal as may be required by law.

Richard J. McNeil, Esq.

Richard J. McNeil, Esq.

Enclosures (4)

OEHHA Proposition 65: A Summary

Certificate of Merit

Additional Supporting Information for Certificate of Merit (to the Office of the Attorney General Only) Certificate of Service

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**CERTIFICATE OF MERIT (EXCEPT TO THE OFFICE OF THE ATTORNEY
GENERAL OF THE STATE OF
CALIFORNIA)**

California Health & Safety Code Section 25249.7(d)

I, Richard J. McNeil, hereby declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged that the party identified in the notice has violated California Health and Safety Code §25249.6 by failing to provide a clear and reasonable warning;
2. I am one of the attorneys 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 this notice and/or the listed chemical in substantially similar products sold through one or more entities in the supply chain respecting the Products;
4. Based on the information obtained through those consultations and other information, 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 citizen’s claims can be established and that the information did not prove that any exemption or other affirmative defense set forth in the statute has merit; and
5. The Certificate of Merit served separately only on the Attorney General references the factual and legal information sufficient to establish the basis for this certificate under Health and Safety Code §25249.7(d)(1) and §25249.7(h)(2) including (i) the identity of the persons consulted with and relied on by the certifier and (ii) the facts, studies, or other data reviewed by those persons.

Dated: February 13, 2026

Richard J. McNeil

Richard J. McNeil

February 19, 2026

PROOF OF SERVICE

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

I am over the age of 18 years and not a party to the within action. My business address is 2030 Main Street, Suite 1300, Irvine, CA 92614. I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail in Orange County, California.

On **February 19, 2026**, between 8:00 a.m. and 5:00 p.m. PST, I served the following documents:

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

on the following parties by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties listed below and depositing it in a U.S. Postal Service Office with the postage fully prepaid for delivery by Certified Mail:

Conagra Brands, Inc. CT Corporation System 208 So Lasalle St, Suite 814 Chicago, Il 60604-1101	CEO Sean M. Connolly or Current CEO, President, or General Counsel Conagra Brands, Inc. 222 Merchandise Mart Plaza Chicago, IL 60654
Conagra Brands, Inc. c/o CT Corporation System 330 N Brand Blvd. Glendale, CA 91203	

Executed on **February 19, 2026**, in Los Angeles, California.

/s/ Janna Lim

Janna Lim

February 19, 2026

PROOF OF SERVICE

I, the undersigned, declare under penalty of perjury:

I am over the age of 18 years and not a party to the within action. I am a resident or employed in the county where the mailing occurred.

On **February 19, 2026**, I caused to be served the following documents:

4. **SIXTY-DAY NOTICE OF VIOLATION SENT IN COMPLIANCE WITH HEALTH & SAFETY CODE §25249.7(d);**
5. **CERTIFICATE OF MERIT; and**
6. **THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY**

XXXX By Electronic Mail (as specified on the attached Service List)

XXXX By First Class Mail (as specified on the attached Service List)

XXXX By Electronic Upload by causing true and correct copies of the above documents to be uploaded to the California Attorney General’s website at the web address on the attached “Electronic Upload Service List.”

Executed on **February 19, 2026**, in Orange, California.

Janna Lim

Janna Lim

February 16, 2026

ATTORNEY GENERAL SERVICE LIST

Office of the California Attorney General

Proposition 65 Enforcement Reporting

ATTN: Prop 65 Coordinator (with Attorney General Only Certificate of Merit)

<https://oag.ca.gov/prop65/add-60-day-notice>

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SERVICE LIST

<p>The Honorable Todd Riebe Amador County District Attorney 708 Court Street Jackson, CA 95642 amadorda@amadorgov.org</p>	<p>The Honorable Donna Daly Trinity County District Attorney P.O. Box 310 11 Court Street Weaverville, CA 96093 trinityjournal@dcacable.net</p>	<p>Paul E. Zellerbach, District Attorney Riverside County 3072 Orange Street Riverside, CA 92501 Prop65@rivcoda.org</p>
<p>The Honorable Maggie Fleming Humboldt County District Attorney 825 5th Street, Fourth Floor Eureka, CA 95501 districtattorney@co.humboldt.ca.us</p>	<p>The Honorable Sally O. Moreno Madera County District Attorney 209 West Yosemite Avenue Madera, CA 93637 Sally.Moreno@co.madera.ca.gov</p>	<p>Cynthia Zimmer Kern County District Attorney 1215 Truxtun Avenue, 4th Floor Bakersfield, CA 93301 CZimmer@kernda.org</p>
<p>Michelle Latimer Lassen County Program Coordinator 220 S. Lassen Street Susanville, CA 96130 mlatimer@co.lassen.ca.us</p>	<p>The Honorable Thomas Hardy Inyo County District Attorney P.O. Box Drawer D Independence, CA 93526 inyoda@inyocounty.us</p>	<p>The Honorable Krishna A. Abrams Solano County District Attorney 675 Texas Street, Suite 4500 Fairfield, CA 94533 SolanoDA@solanocounty.com</p>
<p>Allison Haley, District Attorney Napa County 1127 First Street, Suite C Napa, CA 94559</p>	<p>The Honorable Laura L. Krieg Tuolumne County District Attorney 423 North Washington Street Sonora, CA 95370</p>	<p>The Honorable Barbara Yook Calaveras County District Attorney 891 Mountain Ranch Rd. San Andreas, CA 95249 Prop65Env@co.calaveras.ca.us</p>
<p>The Honorable David Hollister Plumas County District Attorney 520 Main Street, Room 404 Quincy, CA 95971 davidhollister@countyofplumas.com</p>	<p>Jeff W. Reisig, District Attorney Yolo County 301 Second Street Woodland, CA 95695 cfepd@yolocounty.org</p>	<p>Mark Ankcorn, Deputy City Attorney Office of the City Attorney, San Diego 1200 Third Avenue, Suite 1620 San Diego, CA 92101 CityAttyProp65@sandiego.gov</p>
<p>Henry Lifton, Deputy City Attorney Office of the City Attorney San Francisco 390 Market Street, 7th Floor San Francisco, CA 94102 Prop65@sfcityatty.org</p>	<p>Alexandra Grayner, Assistant DA San Francisco District Attorney's Office 350 Rhode Island Street N. Bldg., 400N San Francisco, CA 94103 alexandra.grayner@sfgov.org</p>	<p>The Honorable Clifford Newell Nevada County District Attorney 201 Commercial Street Nevada City, CA 95959 DA.Prop65@co.nevada.ca.us</p>
<p>The Honorable Jill R. Ravitch Sonoma County District Attorney 600 Administration Drive Sonoma, CA 95403 jbarnes@sonomacounty.org</p>	<p>Christopher Dalbey, Deputy District Attorney Santa Barbara County 1112 Santa Barbara St. Santa Barbara, CA 93101</p>	<p>The Honorable Susan Alcala Wood Office of the City Attorney, Sacramento 915 I Street, 4th Floor Sacramento, CA 95814 clerk@cityofsacramento.org</p>
<p>The Honorable Phillip J. Cline Tulare County District Attorney 221 South Mooney Boulevard Visalia, CA 93291-4593 Prop65@co.tulare.ca.us</p>	<p>The Honorable Jeanine M. Pacioni Monterey County District Attorney 1200 Aguajito Road Monterey, CA 93940 Prop65DA@co.monterey.ca.us</p>	<p>The Honorable Tim Kendall Mono County District Attorney 278 Main Street P.O. Box 617 Bridgeport, CA 93517 districtattorney@mono.ca.gov</p>

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<p>Honorable Katherine Nell Micks Del Norte County District Attorney 450 H Street, Suite 171 Crescent City, CA 95531</p>	<p>The Honorable Walter Wall Mariposa County District Attorney 5085 Bullion Street P.O. Box 730 Mariposa, CA 95338 mcda@mariposacounty.org</p>	<p>Eric J. Dobroth, Deputy District Attorney San Luis Obispo County County Govt Center Annex, 4th Floor San Luis Obispo, CA 93408 edobroth@co.slo.ca.us</p>
<p>The Honorable Tori Verber Salazar San Joaquin County District Attorney P.O. Box 990</p>	<p>The Honorable Sandra Groven Sierra County District Attorney 100 Courthouse Square, Room B1</p>	<p>Bud Porter, Supervising Deputy District Attorney Santa Clara County</p>
<p>222 E. Weber Avenue, Room 202 Stockton, CA 95201 DAConsumer.Environmental@sjcda.org</p>	<p>P.O. Box 457 Downieville, CA 95936 sgroven@sierracounty.ca.gov</p>	<p>70 West Hedding Street San Jose, CA 95110 EPU@da.sccgov.org</p>
<p>The Honorable Samuel D. Kylo Modoc County District Attorney 204 South Court Street, Suite 202 Alturas, CA 96101 da@co.modoc.ca.us</p>	<p>The Honorable Jeffrey S. Rosell Santa Cruz County District Attorney 701 Ocean Street, Room 200 Santa Cruz, CA 95060 Prop65DA@santacruzcounty.us</p>	<p>The Honorable James Kirk Andrus Siskiyou County District Attorney 311 4th Street Yreka, CA 96097 da@siskiyouda.org</p>
<p>Nancy O'Malley, District Attorney Alameda County 7776 Oakport Street, Suite 650 Oakland, CA 94621 CEPDPProp65@acgov.org</p>	<p>The Honorable Susan J. Kronos Lake County District Attorney 255 North Forbes Street Lakeport, CA 95453</p>	<p>The Honorable Nora V. Frimann, Office of the City Attorney, San Jose 200 East Santa Clara Street, 16th Floor San Jose, CA 95113 Proposition65notices@sanjoseca.gov</p>
<p>The Honorable Kimberly Lewis Merced County District Attorney 550 West Main Street Merced, CA 95340 Prop65@countyofmerced.com</p>	<p>Honorable Brendan Farrell Colusa County District Attorney 346 Fifth Street Suite 101 Colusa, CA 95932</p>	<p>The Honorable Morgan Briggs Gire Placer County District Attorney 10810 Justice Center Drive, Suite 240 Roseville, CA 95678 Prop65@placer.ca.gov</p>
<p>Stacey Grassini, Deputy District Attorney Contra Costa County 900 Ward Street Martinez, CA 94553 sgrassini@contracostada.org</p>	<p>The Honorable C. David Eyster Mendocino County District Attorney 100 North State Street, Room G-10 P.O. Box 1000 Ukiah, CA 95482 enviroh@mendocinocounty.org</p>	<p>The Honorable Lisa Smittcamp Fresno County District Attorney 2220 Tulare Street, Suite 1000 Fresno, CA 93721 dmail@fresnocountyca.gov</p>
<p>The Honorable Anne Marie Schubert Sacramento County District Attorney 901 G Street Sacramento, CA 95814 Prop65@sacda.org</p>	<p>The Honorable Gregory D. Totten Ventura County District Attorney 800 South Victoria Avenue, Suite 314 Ventura, CA 93009 daspecialops@ventura.org</p>	<p>The Honorable Michael Ramsey Butte County District Attorney 25 County Center Dr #245 Oroville, CA 95965 DA@ButteCounty.net</p>
<p>The Honorable Jason Anderson San Bernardino County District Attorney 303 West 3rd Street, 6th Floor San Bernardino, CA 92415-0502 da@sbcda.org</p>	<p>The Honorable Summer Stephan San Diego County District Attorney 330 West Broadway Street San Diego, CA 92101 SanDiegoDAProp65@sdcca.org</p>	<p>Honorable Robert Priscaro Alpine County District Attorney PO Box 248 Markleeville, CA 96120</p>

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<p>The Honorable Jennifer Dupre Sutter County, District Attorney 463 2nd Street, Suite 102 Yuba City, CA 95991</p>	<p>The Honorable Matthew Rogers Tehama County, District Attorney P.O. Box 519 Red Bluff, CA 96080</p>	<p>The Honorable Joel Buckingham San Benito County, District Attorney 419 4th Street Hollister, CA 95023</p>
<p>The Honorable Stephen M. Wagstaffe San Mateo County, District Attorney 500 County Center, Third Floor Redwood City, CA 94063</p>	<p>The Honorable Stephanie A. Bridgett Shasta County, District Attorney 1355 West Street Redding, CA 96001</p>	<p>The Honorable Jeff Laugero Stanislaus County, District Attorney 832 12th Street, Suite 300 Modesto, CA 95353</p>
<p>The Honorable Nathan J. Hochman Los Angeles County, District Attorney 211 W. Temple Street, Suite 1200 Los Angeles, CA 90012</p>	<p>The Honorable Hydec Feldstein Soto City of Los Angeles, City Attorney 200 N. Main Street #800 Los Angeles, CA 90012</p>	<p>The Honorable Clint Curry Yuba County, District Attorney 215 Fifth Street, Suite 152 Marysville, CA 95901</p>
<p>Honorable Lori E. Frugoli, Marin County District Attorney 3501 Civic Center Drive, Room 145 San Rafael, CA 94903 consumer@marincounty.gov</p>	<p>Honorable Todd Spitzer, Orange County District Attorney 300 N. Flower Street Santa Ana, CA 92703 Phone: (714) 834-3600 Prop65Notice@ocdapa.org</p>	<p>Honorable Dwayne R. Stewart Glenn County District Attorney PO Box 430 Willows, CA 95988</p>
<p>Honorable George Marques Imperial County District Attorney 940 West Main Street Suite 102 El Centro, CA 92243</p>	<p>Honorable Eric Gonzalez Kings County District Attorney 1400 West Lacey Boulevard, Building # 4 Hanford, CA 93230</p>	<p>Honorable James Clinchard, El Dorado Assistant District Attorney 778 Pacific Street Placerville, CA 95667 EDCDAPROP65@edcda.us</p>

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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 female or male reproductive systems or to the developing fetus. This list must be

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>.

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updated at least once a year. The current Proposition 65 list of chemicals is available on the OEHHA website at: http://www.oehha.ca.gov/prop65/prop65_list/Newlist.html.

Only those chemicals that are on the list are regulated under 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

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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.

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

² See Section 25501(a)(4).

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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...

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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.