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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ALAMEDA

**ENVIRONMENTAL RESEARCH
CENTER, INC., a California non-profit
corporation**

Plaintiff,

vs.

**ZEZIA LLC; ZEZIA PBC; and DOES 1-
100**

Defendants.

CASE NO. 25CV123987

**[PROPOSED] STIPULATED
CONSENT JUDGMENT**

Health & Safety Code § 25249.5 *et seq.*

Action Filed: May 21, 2025

Trial Date: None set

1. INTRODUCTION

1.1 On May 21, 2025, Plaintiff Environmental Research Center, Inc. (“ERC”), a non-profit corporation, as a private enforcer and in the public interest, initiated this action by filing a Complaint for Injunctive and Declaratory Relief and Civil Penalties (the “Complaint”)

pursuant to the provisions of California Health and Safety Code section 25249.5 *et seq.* (“Proposition 65”), against Zevia LLC and Zevia PBC (collectively “Zevia”) and Does 1-100. In this action, ERC alleges that beverage products manufactured, distributed, or sold by Zevia contain lead and/or mercury, chemicals listed under Proposition 65 as carcinogens and/or reproductive toxins, and expose consumers to these chemicals at a level requiring a Proposition 65 warning. These beverage products (referred to hereinafter individually as a “Covered Product” or collectively as “Covered Products”) are: (1) Zevia Kidz Fruit Punch Naturally Flavored Sparkling Drink (lead, mercury), (2) Zevia Kidz Fizzy Apple Naturally Flavored Sparkling Drink (lead, mercury), (3) Zevia Zero Sugar Energy Drink Grapefruit Naturally Flavored (lead, mercury), (4) Zevia Kidz Strawberry Lemonade Naturally Flavored Sparkling Drink (mercury), (5) Zevia Kids Orange Cream Naturally Flavored Zero Sugar Sparkling Drink (mercury), (6) Zevia Zero Sugar Soda Vanilla Cola Naturally Flavored (lead, mercury), (7) Zevia Zero Sugar Soda Dr. Zevia Naturally Flavored (mercury), (8) Zevia Zero Sugar Soda Cola Naturally Flavored (lead, mercury), (9) Zevia Zero Sugar Soda Cream Soda Naturally Flavored (lead, mercury), (10) Zevia Zero Sugar Soda Cherry Cola Naturally Flavored (lead, mercury), (11) Zevia Zero Sugar Soda Grape Naturally Flavored (lead, mercury), (12) Zevia Zero Sugar Energy Drink Peach Passionfruit Naturally Flavored (lead), (13) Zevia Zero Sugar Energy Drink Raspberry Lime Naturally Flavored (lead), (14) Zevia Zero Sugar Tea Tropical Pineapple Sweetened Green Tea Naturally Flavored (lead), (15) Zevia Zero Sugar Tea Peach Sweetened Black Tea Naturally Flavored (lead), (16) Zevia Zero Sugar Tea Blood Orange Sweetened Earl Grey Tea Naturally Flavored (lead), (17) Zevia Zero Sugar Tea Passionfruit Sweetened Hibiscus Tea Naturally Flavored (lead), (18) Zevia Zero Sugar Energy Drink Kola Naturally Flavored (lead), (19) Zevia Zero Sugar Energy Drink Watermelon Naturally Flavored (lead), (20) Zevia Zero Sugar Energy Drink Mango Ginger Naturally Flavored (lead), (21) Zevia Zero Sugar Energy Drink Strawberry Kiwi Naturally Flavored (lead), (22) Zevia Zero Sugar Energy Drink Pineapple Paradise Naturally Flavored (lead, mercury), and (23) Zevia Organic Tea Sweetened Black Tea Lemon (lead).

1.2 ERC and Zevia may also hereinafter be referred to individually as a “Party” or

1 collectively as the “Parties.”

2 **1.3** ERC is a 501 (c)(3) California non-profit corporation dedicated to, among other
3 causes, helping safeguard the public from health hazards by reducing the use and misuse of
4 hazardous and toxic chemicals, facilitating a safe environment for consumers and employees,
5 and encouraging corporate responsibility.

6 **1.4** For purposes of this Proposed Stipulated Consent Judgment (“Consent
7 Judgment”), the Parties agree that Zevia is a business entity that has employed ten or more
8 persons at all times relevant to this action and qualifies as a “person in the course of doing
9 business” within the meaning of Proposition 65. Zevia manufactures, distributes, and/or sells the
10 Covered Products.

11 **1.5** The Complaint is based on allegations contained in ERC’s Notices of Violation
12 dated August 2, 2024, August 14, 2024, August 30, 2024, and September 13, 2024, that were
13 served on the California Attorney General, other public enforcers, and Zevia (collectively, the
14 “Notices”). True and correct copies of the 60-Day Notices dated August 2, 2024, August 14,
15 2024, August 30, 2024, and September 13, 2024 are attached hereto as **Exhibits A, B, C, and**
16 **D**, and each is incorporated herein by reference. More than 60 days have passed since the
17 Notices were served on the Attorney General, public enforcers, and Zevia and no designated
18 governmental entity has filed a Complaint against Zevia with regard to the Covered Products or
19 the alleged violations.

20 **1.6** ERC’s Notices and Complaint allege that use of the Covered Products by
21 California consumers exposes them to lead and/or mercury without first receiving clear and
22 reasonable warnings from Zevia, which is in violation of California Health and Safety Code
23 section 25249.6. Zevia denies all material allegations contained in the Notices and Complaint.

24 **1.7** The Parties have entered into this Consent Judgment in order to settle,
25 compromise, and resolve disputed claims and thus avoid prolonged and costly litigation.
26 Nothing in this Consent Judgment nor compliance with this Consent Judgment shall constitute
27 or be construed as an admission by any of the Parties or by any of their respective officers,
28 directors, shareholders, employees, agents, parent companies, subsidiaries, divisions,

franchisees, licensees, customers, suppliers, distributors, wholesalers, or retailers of any fact, issue of law, or violation of law.

1.8 Except as expressly set forth herein, nothing in this Consent Judgment shall prejudice, waive, or impair any right, remedy, argument, or defense the Parties may have in any current or future legal proceeding unrelated to these proceedings.

1.9 The Effective Date of this Consent Judgment is the date on which it is entered as a Judgment by this Court.

2. JURISDICTION AND VENUE

For purposes of this Consent Judgment and any further court action that may become necessary to enforce this Consent Judgment, the Parties stipulate that this Court has subject matter jurisdiction over the allegations of violations contained in the Complaint and personal jurisdiction over Zevia as to the acts alleged in the Complaint, that venue is proper in Alameda County, and that this Court has jurisdiction to enter this Consent Judgment as a full and final resolution of all claims up to and including the Effective Date that were or could have been asserted in this action based on the facts alleged in the Notices and Complaint.

3. INJUNCTIVE RELIEF, REFORMULATION, TESTING AND WARNINGS

3.1 Beginning on the Effective Date, Zevia shall be permanently enjoined from manufacturing for sale in the State of California, “Distributing into the State of California,” or directly selling in the State of California, any Covered Product that exposes a person to a “Daily Lead Exposure Level” of more than 0.5 micrograms of lead per day and to a “Daily Mercury Exposure Level” of more than 0.3 micrograms of mercury per day, unless the Covered Product meets the warning requirements under Section 3.2.

3.1.1 As used in this Consent Judgment, the term “Distributing into the State of California” shall mean to directly ship a Covered Product into California for sale in California or to sell a Covered Product to a distributor that Zevia knows or has reason to know will sell the Covered Product in California.

3.1.2 For purposes of this Consent Judgment, the “Daily Lead Exposure Level” shall be measured in micrograms, and shall be calculated using the following formula:

1 micrograms of lead per gram of product, multiplied by grams of product per serving of the
2 product (using the largest serving size appearing on the product label), multiplied by servings
3 of the product per day (using the largest number of recommended daily servings appearing on
4 the label), which equals micrograms of lead exposure per day. If the label contains no
5 recommended daily servings, then the number of recommended daily servings shall be one.

6 **3.1.3** For purposes of this Consent Judgment, the “Daily Mercury Exposure
7 Level” shall be measured in micrograms, and shall be calculated using the following formula:
8 micrograms of mercury per gram of product, multiplied by grams of product per serving of the
9 product (using the largest serving size appearing on the product label), multiplied by servings
10 of the product per day (using the largest number of recommended daily servings appearing on
11 the label), which equals micrograms of mercury exposure per day. If the label contains no
12 recommended daily servings, then the number of recommended daily servings shall be one.

13 **3.2 Clear and Reasonable Warnings**

14 If Zevia is required to provide a warning for a Covered Product pursuant to Section 3.1, the
15 following warning must be utilized (“Warning”):

16 **WARNING:** Consuming this product can expose you to chemicals including [lead] [and]
17 [mercury] which is [are] known to the State of California to cause [cancer and] birth defects
18 or other reproductive harm. For more information go to www.P65Warnings.ca.gov/food.

19 The Warning shall begin either with the word “**WARNING,**” as indicated above, or the
20 words “**CA WARNING**” or “**CALIFORNIA WARNING,**” in all capital letters and bold print.
21 Zevia shall use the phrase “cancer and” in the Warning if Zevia has reason to believe that the
22 “Daily Lead Exposure Level” is greater than 15 micrograms of lead as determined pursuant to the
23 quality control methodology set forth in Section 3.4 or if Zevia has reason to believe that another
24 Proposition 65 chemical is present which may require a cancer warning. As identified in the
25 brackets, the warning shall appropriately reflect whether there is lead, mercury, or both chemicals
26 present in each of the Covered Products, but if there is a chemical present at a level that requires a
27 cancer warning, the chemical requiring use of the phrase “cancer and” in the Warning shall
28 always be identified.

1 The Warning shall be securely affixed to or printed upon the label of each Covered
2 Product and it must be set off from other surrounding information and enclosed in a box. In
3 addition, for any Covered Product sold over the internet, the Warning shall appear on the
4 checkout page when a California delivery address is indicated for any purchase of any Covered
5 Product. An asterisk or other identifying method must be utilized to identify which products on
6 the checkout page are subject to the Warning. In addition, for any Covered Product sold over
7 the internet, the Warning may be provided through a clearly marked hyperlink using the word
8 “**WARNING**” in all capital and bold letters on the Covered Product’s primary display page so
9 long as the hyperlink links to a page prominently displaying the Warning without content that
10 detracts from the Warning. A Warning is not prominently displayed if the purchaser has to
11 search for it in the general content of the website.

12 The Warning shall be prominently displayed on the label of each Covered Product and
13 must be displayed with such conspicuousness as compared with other words or labeling as to
14 render the warning likely to be seen, read, and understood by an ordinary individual under
15 customary conditions of purchase or use. In no event shall the Warning be provided in less than
16 six (6) point type. No statements intended to or likely to have the effect of diminishing the impact
17 of the Warning on the average lay person shall accompany the Warning. Further no statements
18 may accompany the Warning that state or imply that the source of the listed chemical has an
19 impact on or results in a less harmful effect of the listed chemical.

20 Where a sign or label used to provide the Warning for a Covered Product includes
21 consumer information about the Covered Product in a language other than English, the Warning
22 must also be provided in that language in addition to English.

23 For purposes of this Consent Judgment, the term “label” means a display of written,
24 printed or graphic material that is printed on or affixed to a Covered Product or its immediate
25 container or wrapper.

26 **3.3 Conforming Covered Products**

27 A Conforming Covered Product is a Covered Product for which the “Daily Lead Exposure
28 Level” is no greater than 0.5 micrograms of lead per day and the “Daily Mercury Exposure Level”

1 is no greater than 0.3 micrograms of mercury per day, as determined by the exposure
2 methodology set forth in Section 3.1.2 and the quality control methodology described in Section
3 3.4.

4 **3.4 Testing and Quality Control Methodology**

5 **3.4.1** Beginning within one year of the Effective Date, Zevia shall arrange for
6 lead and mercury testing of all Covered Products at least once a year for a minimum of three
7 (3) consecutive years by arranging for testing of three (3) randomly selected samples of each of
8 the Covered Products, in the form intended for sale to the end-user, which Zevia intends to sell
9 or is manufacturing for sale in California, directly selling to a consumer in California or
10 “Distributing into the State of California.” If tests conducted pursuant to this Section
11 demonstrate that no Warning is required for a Covered Product during each of three (3)
12 consecutive years, then the testing requirements of this Section will no longer be required as to
13 that Covered Product.

14 **3.4.2** For purposes of measuring the “Daily Lead Exposure Level” and/or the
15 “Daily Mercury Exposure Level,” the highest lead and/or mercury detection result of the three
16 (3) randomly selected samples of the Covered Products will be controlling.

17 **3.4.3** All testing pursuant to this Consent Judgment shall be performed using a
18 laboratory method that complies with the performance and quality control factors appropriate
19 for the method used, including limit of detection and limit of quantification, sensitivity,
20 accuracy and precision that meets the following criteria: Inductively Coupled Plasma-Mass
21 Spectrometry (“ICP-MS”) achieving a limit of quantification of less than or equal to 0.005
22 mg/kg.

23 **3.4.4** All testing pursuant to this Consent Judgment shall be performed by an
24 independent third party laboratory certified by the California Environmental Laboratory
25 Accreditation Program or an independent third-party laboratory that is registered with the
26 United States Food & Drug Administration.

27 **3.4.5** Nothing in this Consent Judgment shall limit Zevia’s ability to conduct,
28 or require that others conduct, additional testing of the Covered Products, including the raw

1 materials used in their manufacture.

2 **3.4.6** If ERC has testing showing that a violation of this Consent Judgment has
3 occurred, within thirty (30) days of ERC's written request, Zevia shall deliver lab reports
4 obtained pursuant to Section 3.4 to ERC. Zevia shall retain all such lab reports and related
5 documentation for a period of three years from the date of each test. Any request by ERC for lab
6 reports shall be made prior to the expiration of the three-year time period identified in this
7 section 3.4.6.

8 **3.4.7** The testing requirements under this Section 3.4 do not apply during any
9 period in which Zevia has ceased production of the Covered Products and is not manufacturing
10 the Covered Products for sale in the State of California, Distributing the Covered Products into
11 the State of California, or directly selling the Covered Products in the State of California.
12 However, in the event Zevia resumes California sales of the Covered Products or begins
13 manufacturing or distributing the Covered Products for sale in California (collectively referred to
14 as "California Sales Practices"), Zevia shall be required to begin complying with the testing
15 requirements of Section 3.4 with respect to the Covered Products within one year after the date
16 that Zevia resumes engaging in the aforementioned California Sales Practices.

17 **3.5** Nothing in Section 3 of this Consent Judgment shall prevent or preclude ERC
18 from obtaining and relying upon its own testing for purposes of enforcement, so long as such
19 testing meets the requirements of Sections 3.4.3 and 3.4.4. Nothing in Section 3.4 of this Consent
20 Judgment is intended by either party to set a precedent for the level of lead, mercury, or other
21 chemicals that is permissible in consumer products under Proposition 65.

22 **3.6** Notwithstanding any other provision of this Consent Judgment, Zevia shall be
23 deemed to be in compliance with this Consent Judgment if, after the Effective Date, it provides a
24 warning in compliance with new or modified final safe harbor warning regulations adopted by
25 the State of California's Office of Environmental Health Hazard Assessment ("OEHHA")
26 applicable to the Covered Products and exposure to lead and/or mercury. In the event that
27 Proposition 65, either as a whole or as specifically applicable to the Covered Products or listed
28 chemicals at issue in the case, is repealed or federally preempted, or if new or different safe

harbor levels are established as applicable to the Covered Products, or if Proposition 65 is otherwise rendered inapplicable to the Covered Products or the listed chemicals at issue in this case, all by any final California regulation or statute, or by a decision of the California Supreme Court or the United States Supreme Court or by the California legislature or the United States Congress, or if any provision of this Consent Judgment is specifically rendered inapplicable or no longer required as to the Covered Products as a result of any such regulatory or statutory change, repeal or preemption or decision of the California Supreme Court or the United States Supreme Court, or due to binding federal laws or regulations, then Zevia may provide written notice to ERC of any asserted change in the law and seek modification of the Consent Judgment pursuant to Section 5.

4. SETTLEMENT PAYMENT

4.1 In full satisfaction of all potential civil penalties, additional settlement payments, attorney's fees, and costs, Zevia shall make a total payment of \$50,000.00 ("Total Settlement Amount") to ERC within 5 days of the Effective Date ("Due Date"). Zevia shall make this payment by wire transfer to ERC's account, for which ERC will give Zevia the necessary account information. The Total Settlement Amount shall be apportioned as follows:

4.2 \$5,000.00 shall be considered a civil penalty pursuant to California Health and Safety Code section 25249.7(b)(1). ERC shall remit 75% (\$3,750.00) of the civil penalty to the Office of Environmental Health Hazard Assessment ("OEHHA") for deposit in the Safe Drinking Water and Toxic Enforcement Fund in accordance with California Health and Safety Code section 25249.12(c). ERC will retain the remaining 25% (\$1,250.00) of the civil penalty.

4.3 \$14,645.01 shall be distributed to ERC as reimbursement to ERC for reasonable costs incurred in bringing this action.

4.4 \$16,846.05 shall be distributed to Aqua Terra Aeris Law Group as reimbursement of ERC's attorney fees, while \$13,508.94 shall be distributed to ERC for its in-house legal fees. Except as explicitly provided herein, each Party shall bear its own fees and costs.

4.5 In the event that Zevia fails to remit the Total Settlement Amount owed under

1 Section 4 of this Consent Judgment on or before the Due Date, Zevia shall be deemed to be in
2 material breach of its obligations under this Consent Judgment. ERC shall provide written
3 notice of the delinquency to Zevia via electronic mail. If Zevia fails to deliver the Total
4 Settlement Amount within five (5) days from the written notice, the Total Settlement Amount
5 shall accrue interest at the statutory judgment interest rate provided in the California Code of
6 Civil Procedure section 685.010. Additionally, Zevia agrees to pay ERC's reasonable
7 attorney's fees and costs for any efforts to collect the payment due under this Consent
8 Judgment.

9 **5. MODIFICATION OF CONSENT JUDGMENT**

10 **5.1** This Consent Judgment may be modified only as to injunctive terms (i) by
11 written stipulation of the Parties and upon entry by the Court of a modified consent judgment
12 or (ii) by motion of either Party pursuant to Section 5.3 and upon entry by the Court of a
13 modified consent judgment.

14 **5.2** If Zevia seeks to modify this Consent Judgment under Section 5.1, then Zevia
15 must provide written notice to ERC of its intent ("Notice of Intent"). If ERC seeks to meet and
16 confer regarding the proposed modification in the Notice of Intent, then ERC must provide
17 written notice to Zevia within thirty (30) days of receiving the Notice of Intent. If either Party
18 notifies the other Party in a timely manner of its intent to meet and confer, then the Parties
19 shall meet and confer in good faith as required in this Section. The Parties shall meet in
20 person, via remote meeting, or by telephone within thirty (30) days of ERC's notification of its
21 intent to meet and confer. Within thirty (30) days of such meeting, if a Party disputes the
22 moving Party's proposed modification, the Party disputing the modification shall provide the
23 moving Party written basis for its position. The Parties shall continue to meet and confer for
24 an additional thirty (30) days in an effort to resolve any remaining disputes. Should it become
25 necessary, the Parties may agree in writing to different deadlines for the meet-and-confer
26 period.

27 **5.3** In the event that Zevia initiates or otherwise requests a modification under
28 Section 5.1, and the meet and confer process leads to a joint motion or joint application for a

modification of the Consent Judgment, Zevia shall reimburse ERC its costs and reasonable attorney's fees for the time spent in the meet-and-confer process and filing and arguing the motion or application.

6. RETENTION OF JURISDICTION, ENFORCEMENT OF CONSENT JUDGMENT

6.1 This Court shall retain jurisdiction of this matter to enforce, modify, or terminate this Consent Judgment.

6.2 If ERC alleges that any Covered Product fails to qualify as a Conforming Covered Product (for which ERC alleges that no Warning has been provided), then ERC shall inform Zevia in a reasonably prompt manner of its test results, including information sufficient to permit Zevia to identify the Covered Products at issue. Zevia shall, within thirty (30) days following such notice, provide ERC with testing information, from an independent third-party laboratory meeting the requirements of Sections 3.4.3 and 3.4.4, demonstrating Zevia's compliance with the Consent Judgment. The Parties shall first attempt to resolve the matter prior to ERC taking any further legal action.

7. APPLICATION OF CONSENT JUDGMENT

This Consent Judgment may apply to, be binding upon, and benefit the Parties and their respective officers, directors, shareholders, employees, agents, parent companies, subsidiaries, divisions, franchisees, licensees, customers (excluding private labelers), distributors, wholesalers, retailers, predecessors, successors, and assigns. This Consent Judgment shall have no application to any Covered Product that is distributed or sold exclusively outside the State of California and that is not used by California consumers.

8. BINDING EFFECT, CLAIMS COVERED AND RELEASED

8.1 This Consent Judgment is a full, final, and binding resolution between ERC, on behalf of itself and in the public interest, and Zevia and its respective officers, directors, shareholders, employees, agents, parent companies, subsidiaries, divisions, suppliers, franchisees, licensees, customers (not including private label customers of Zevia), distributors, wholesalers, retailers, and all other upstream and downstream entities in the distribution chain

1 of any Covered Product, and the predecessors, successors, and assigns of any of them
2 (collectively, "Released Parties").

3 **8.2** ERC, acting in the public interest, releases the Released Parties from any and all
4 claims for violations of Proposition 65 up to and including the Effective Date based on
5 exposure to lead and mercury from the Covered Products, as set forth in the Notices of
6 Violation. ERC, on behalf of itself only, hereby fully releases and discharges the Released
7 Parties from any and all claims, actions, causes of action, suits, demands, liabilities, damages,
8 penalties, fees, costs, and expenses asserted, or that could have been asserted from the
9 handling, use, or consumption of the Covered Products, as to any alleged violation of
10 Proposition 65 or its implementing regulations arising from the failure to provide Proposition
11 65 warnings on the Covered Products up to and including the Effective Date.

12 **8.3** ERC on its own behalf only, and Zevia on its own behalf only, further waive
13 and release any and all claims they may have against each other for all actions or statements
14 made or undertaken in the course of seeking or opposing enforcement of Proposition 65 in
15 connection with the Notices and Complaint up to and including the Effective Date, provided,
16 however, that nothing in Section 8 shall affect or limit any Party's right to seek to enforce the
17 terms of this Consent Judgment.

18 **8.4** It is possible that other claims not known to the Parties, arising out of the facts
19 alleged in the Notices and Complaint, and relating to the Covered Products, will develop or be
20 discovered. ERC on behalf of itself only, and Zevia on behalf of itself only, acknowledge that
21 this Consent Judgment is expressly intended to cover and include all such claims up to and
22 including the Effective Date, including all rights of action therefore. ERC and Zevia
23 acknowledge that the claims released in Sections 8.2 and 8.3 above may include unknown
24 claims and nevertheless waive California Civil Code section 1542 as to any such unknown
25 claims. California Civil Code section 1542 reads as follows:

26 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE
27 CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO
28 EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE
 AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY
 AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED

1 PARTY.

2 ERC on behalf of itself only, and Zevia on behalf of itself only, acknowledge and understand
3 the significance and consequences of this specific waiver of California Civil Code section
4 1542.

5 **8.5** Compliance with the terms of this Consent Judgment shall be deemed to
6 constitute compliance with Proposition 65 by any of the Released Parties regarding alleged
7 exposures to lead and mercury in beverage products that Zevia manufactures, distributes, or
8 sells in California.

9 **8.6** Nothing in this Consent Judgment is intended to apply to any occupational or
10 environmental exposures arising under Proposition 65, nor shall it apply to any of Zevia's
11 products other than the Covered Products, except as indicated in Section 8.5.

12 **9. SEVERABILITY OF UNENFORCEABLE PROVISIONS**

13 In the event that any of the provisions of this Consent Judgment are held by a court to be
14 unenforceable, the validity of the remaining enforceable provisions shall not be adversely
15 affected.

16 **10. GOVERNING LAW**

17 The terms and conditions of this Consent Judgment shall be governed by and construed in
18 accordance with the laws of the State of California.

19 **11. PROVISION OF NOTICE**

20 All notices required to be given to either Party to this Consent Judgment by the other shall
21 be in writing and sent to the following agents listed below via first-class mail or via electronic
22 mail where required. Courtesy copies via email may also be sent.

23 **FOR ENVIRONMENTAL RESEARCH CENTER, INC.:**

24 Chris Heptinstall, Executive Director
25 Environmental Research Center
26 3111 Camino Del Rio North, Suite 400
27 San Diego, CA 92108
28 Ph: (619) 500-3090
Email: chris.heptinstall@erc501c3.org

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With a copy to:
Matthew C. Maclear
Anthony M. Barnes
Aqua Terra Aeris Law Group
4030 Martin Luther King Jr. Way
Oakland, CA 94609
Telephone: (415) 568-5200
Email: mcm@atalawgroup.com
amb@atalawgroup.com

FOR ZEVIA LLC; ZEVIA PBC.:
Girish Satya, Chief Financial Officer
Zevia PBC
15821 Ventura Blvd., Suite 145
Encino, CA 91436
Email: zevia@zevia.com

With a copy to:
Trenton H. Norris
David M. Barnes
Hogan Lovells US LLP
4 Embarcadero Center, Suite 3500
San Francisco, CA 94111
Telephone: (415) 374-2300
Email: trent.norris@hoganlovells.com
david.barnes@hoganlovells.com

12. COURT APPROVAL

12.1 Upon execution of this Consent Judgment by the Parties, ERC shall notice a Motion for Court Approval. The Parties shall use their best efforts to support entry of this Consent Judgment.

12.2 If the California Attorney General objects to any term in this Consent Judgment, the Parties shall use their best efforts to resolve the concern in a timely manner, and if possible prior to the hearing on the motion.

12.3 If this Stipulated Consent Judgment is not approved by the Court, it shall be void and have no force or effect.

13. EXECUTION AND COUNTERPARTS

This Consent Judgment may be executed in counterparts, which taken together shall be

1 deemed to constitute one document. A facsimile or .pdf signature shall be construed to be as valid
2 as the original signature.

3 **14. DRAFTING**

4 The terms of this Consent Judgment have been reviewed by the respective counsel for
5 each Party prior to its signing, and each Party has had an opportunity to fully discuss the terms
6 and conditions with legal counsel. The Parties agree that, in any subsequent interpretation and
7 construction of this Consent Judgment, no inference, assumption, or presumption shall be drawn,
8 and no provision of this Consent Judgment shall be construed against any Party, based on the fact
9 that one of the Parties and/or one of the Parties' legal counsel prepared and/or drafted all or any
10 portion of the Consent Judgment. It is conclusively presumed that all of the Parties participated
11 equally in the preparation and drafting of this Consent Judgment.

12 **15. GOOD FAITH ATTEMPT TO RESOLVE DISPUTES**

13 If a dispute arises with respect to either Party's compliance with the terms of this Consent
14 Judgment entered by the Court, the Parties shall meet and confer in person, via remote meeting,
15 by telephone, and/or in writing and endeavor to resolve the dispute in an amicable manner. No
16 action or motion may be filed in the absence of such a good faith attempt to resolve the dispute
17 beforehand.

18 **16. ENFORCEMENT**

19 ERC may, by motion or order to show cause before the Superior Court of Alameda
20 County, enforce the terms and conditions contained in this Consent Judgment. In any action
21 brought by ERC to enforce this Consent Judgment, ERC may seek whatever fines, costs,
22 penalties, or remedies as are provided by law for failure to comply with the Consent Judgment.
23 To the extent the failure to comply with the Consent Judgment constitutes a violation of
24 Proposition 65 or other laws, ERC shall not be limited to enforcement of this Consent
25 Judgment, but may seek in another action whatever fines, costs, penalties, or remedies as are
26 provided by law for failure to comply with Proposition 65 or other laws.

27 **17. ENTIRE AGREEMENT, AUTHORIZATION**

28 **17.1** This Consent Judgment contains the sole and entire agreement and

1 understanding of the Parties with respect to the entire subject matter herein, including any and
2 all prior discussions, negotiations, commitments, and understandings related thereto. No
3 representations, oral or otherwise, express or implied, other than those contained herein have
4 been made by any Party. No other agreements, oral or otherwise, unless specifically referred to
5 herein, shall be deemed to exist or to bind any Party.

6 **17.2** Each signatory to this Consent Judgment certifies that he or she is fully
7 authorized by the Party he or she represents to stipulate to this Consent Judgment.

8 **18. REQUEST FOR FINDINGS, APPROVAL OF SETTLEMENT AND ENTRY OF**
9 **CONSENT JUDGMENT**

10 This Consent Judgment has come before the Court upon the request of the Parties. The
11 Parties request the Court to fully review this Consent Judgment and, being fully informed
12 regarding the matters which are the subject of this action, to:

13 (1) Find that the terms and provisions of this Consent Judgment represent a fair and
14 equitable settlement of all matters raised by the allegations of the Complaint that the matter has
15 been diligently prosecuted, and that the public interest is served by such settlement; and

16 (2) Make the findings pursuant to California Health and Safety Code section
17 25249.7(f)(4), approve the Settlement, and approve this Consent Judgment.

18 (3) Retain jurisdiction, pursuant to Section 664.6 of the Code of Civil Procedure, after
19 the Consent Judgment is entered in order to enforce, modify, or terminate this Consent Judgment.

20 **IT IS SO STIPULATED:**

21
22 Dated: 6/21, 2025

ENVIRONMENTAL RESEARCH
CENTER, INC.

23
24 By: 
25 Chris Heptinstall, Executive Director

26 ///

27 ///

28 ///

1 Dated: May 29, 2025

ZEVIA LLC

Signed by:

Girish Satya

CD53AF9C3A954BD...

By: Girish Satya

Its: Chief Financial Officer (Zevia PBC)

6 Dated: May 29, 2025

ZEVIA PBC

Signed by:

Girish Satya

CD53AF9C3A954BD...

By: Girish Satya

Its: Chief Financial Officer

12 **APPROVED AS TO FORM:**

14 Dated: June 2, 2025

AQUA TERRA AERIS LAW GROUP

By:

Matthew C. Maclear

Anthony M. Barnes

Attorneys for Plaintiff Environmental
Research Center, Inc.

21 Dated: June 2, 2025

HOGAN LOVELLS US LLP

By:

David Barnes

Attorney for Defendants Zevia LLC and
Zevia PBC

Based upon the Parties' Stipulation, and good cause appearing, this Consent Judgment is approved and Judgment is hereby entered according to its terms.

IT IS SO ORDERED, ADJUDGED AND DECREED.

Judge of the Superior Court

EXHIBIT A



Matthew Maclear
mcm@atalawgroup.com
415-568-5200

Anthony Barnes
amb@atalawgroup.com
917-371-8293

August 2, 2024

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

Dear Alleged Violators and the Appropriate Public Enforcement Agencies:

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

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

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

Alleged Violators. The names of the companies covered by this notice that violated Proposition 65 (hereinafter the "Violators") are:

**Zevia LLC
Zevia PBC**



Notice of Violation of California Health & Safety Code §25249.5 *et seq.*
August 2, 2024
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Consumer Products and Listed Chemicals. The products that are the subject of this notice and the chemicals in those products identified as exceeding allowable levels are:

1. Zevia Kidz Fruit Punch Naturally Flavored Sparkling Drink – Lead, Mercury
2. Zevia Kidz Fizzy Apple Naturally Flavored Sparkling Drink – Lead, Mercury
3. Zevia Zero Sugar Energy Drink Grapefruit Naturally Flavored – Lead, Mercury
4. Zevia Kidz Strawberry Lemonade Naturally Flavored Sparkling Drink – Mercury
5. Zevia Kids Orange Cream Naturally Flavored Zero Sugar Sparkling Drink – Mercury

On February 27, 1987, the State of California officially listed lead as a chemical known to cause developmental toxicity, and male and female reproductive toxicity. On October 1, 1992, the State of California officially listed lead and lead compounds as chemicals known to cause cancer.

On July 1, 1990, the State of California officially listed mercury and mercury compounds as chemicals known to cause developmental toxicity and male and female reproductive toxicity.

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

Route of Exposure. The consumer exposures that are the subject of this notice result from the recommended use of these products. Consequently, the route of exposure to these chemicals has been and continues to be through ingestion.

Approximate Time Period of Violations. Ongoing violations have occurred every day since at least August 2, 2021, as well as every day since the products were introduced into the California marketplace, and will continue every day until clear and reasonable warnings are provided to product purchasers and users or until these known toxic chemicals are either removed from or reduced to allowable levels in the products. Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to the identified chemicals. The method of warning should be a warning that appears on the product label. The Violators violated Proposition 65 because they failed to provide persons ingesting these products with appropriate warnings that they are being exposed to these chemicals.

Consistent with the public interest goals of Proposition 65 and a desire to have these ongoing violations of California law quickly rectified, ERC is interested in seeking a constructive resolution of this matter that includes an enforceable written agreement by the Violators to: (1) reformulate the identified products so as to eliminate further exposures to the identified chemicals, or provide appropriate warnings on the labels of these products; (2) pay an appropriate civil penalty; and (3) provide clear and reasonable warnings compliant with Proposition 65 to all persons located in California who purchased the above products



Notice of Violation of California Health & Safety Code §25249.5 *et seq.*
August 2, 2024
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in the last three years. Such a resolution will prevent further unwarned consumer exposures to the identified chemicals, as well as an expensive and time-consuming litigation.

ERC has retained ATA Law Group as legal counsel in connection with this matter. **Please direct all communications regarding this Notice of Violation to my attention, or the attention of ATA partner Anthony Barnes, using the address or contact information indicated on the letterhead.**

Sincerely,

A handwritten signature in dark ink, appearing to read "Matthew Maclear". The signature is written in a cursive, flowing style.

Matthew Maclear
AQUA TERRA AERIS LAW GROUP

Attachments

Certificate of Merit
Certificate of Service
OEHHA Summary (to Zevia LLC, Zevia PBC, and their Registered Agents for Service of Process only)
Additional Supporting Information for Certificate of Merit (to AG only)



Notice of Violation of California Health & Safety Code §25249.5 *et seq.*
August 2, 2024
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CERTIFICATE OF MERIT

Re: Environmental Research Center, Inc.'s Notice of Proposition 65 Violations by Zevia LLC and Zevia PBC

I, Matthew Maclear, declare:

1. This Certificate of Merit accompanies the attached 60-day notice in which it is alleged that the parties identified in the notice violated California Health & Safety Code Section 25249.6 by failing to provide clear and reasonable warnings.

2. I am an attorney for the noticing party.

3. I have consulted with one or more persons with relevant and appropriate experience or expertise who have reviewed facts, studies, or other data regarding the exposure to the listed chemicals that are the subject of the notice.

4. Based on the information obtained through those consultants, and on other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for the private action" means that the information provides a credible basis that all elements of the plaintiff's case can be established and that the information did not prove that the alleged Violators will be able to establish any of the affirmative defenses set forth in the statute.

5. Along with the copy of this Certificate of Merit served on the Attorney General is attached additional factual information sufficient to establish the basis for this certificate, including the information identified in California Health & Safety Code §25249.7(h)(2), i.e., (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

A handwritten signature in dark ink, appearing to read "Matthew Maclear", written over a horizontal line.

Dated: August 2, 2024

Matthew Maclear



Notice of Violation of California Health & Safety Code §25249.5 *et seq.*
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CERTIFICATE OF SERVICE PURSUANT TO 27 CCR § 25903

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

I am a citizen of the United States and over the age of 18 years of age. My business address is 306 Joy Street, Fort Oglethorpe, Georgia 30742. I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at Fort Oglethorpe, Georgia.

On August 2, 2024, between 8:00 a.m. and 5:00 p.m. Eastern Time, I served the following documents: **NOTICE OF VIOLATION OF CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT; "THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY"** on the following parties by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties listed below and depositing it at a U.S. Postal Service Office with the postage fully prepaid for delivery by Certified Mail:

Current President or CEO
Zevia LLC and Zevia PBC
15821 Ventura Blvd, Suite 145
Encino, CA 91436

Cogency Global Inc.
(Registered Agent for Zevia LLC)
4459 B Bluebonnet Boulevard
Baton Rouge, LA 70809

Cogency Global Inc.
(Registered Agent for Zevia LLC and Zevia PBC)
1325 J Street, Suite 1550
Sacramento, CA 95814

Cogency Global Inc.
(Registered Agent for Zevia LLC)
1780 Barnes Boulevard SW
Tumwater, WA 98512

Cogency Global Inc.
(Registered Agent for Zevia LLC and Zevia PBC)
850 New Burton Road, Suite 201
Dover, DE 19904

On August 2, 2024, between 8:00 a.m. and 5:00 p.m. Eastern Time, I verified the following documents **NOTICE OF VIOLATIONS, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT; ADDITIONAL SUPPORTING INFORMATION FOR CERTIFICATE OF MERIT AS REQUIRED BY CALIFORNIA HEALTH & SAFETY CODE §25249.7(d)(1)** were served on the following party when a true and correct copy thereof was uploaded on the California Attorney General's website, which can be accessed at <https://oag.ca.gov/prop65/add-60-day-notice> :

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

On August 2, 2024, between 8:00 a.m. and 5:00 p.m. Eastern Time, I verified the following documents **NOTICE OF VIOLATIONS, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT** were served on the following parties when a true and correct copy thereof was sent via electronic mail to each of the parties listed below:



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

August 2, 2024

Page 6

Pamela Y. Price, District Attorney
Alameda County
7677 Oakport Street, Suite 650
Oakland, CA 94621
CEPDProp65@acgov.org

Walter W. Wall, District Attorney
Mariposa County
P.O. Box 730
Mariposa, CA 95338
mcda@mariposacounty.org

Barbara Yook, District Attorney
Calaveras County
891 Mountain Ranch Road
San Andreas, CA 95249
Prop65Env@co.calaveras.ca.us

Kimberly Lewis, District Attorney
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550 West Main St
Merced, CA 95340
Prop65@countyofmerced.com

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Lisa A. Smittcamp, District Attorney
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Santa Ana, CA 92703
Prop65notice@ocdapa.org

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10810 Justice Center Drive
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Lori E. Frugoli, District Attorney
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3501 Civic Center Drive, Suite 145
San Rafael, CA 94903
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520 Main St
Quincy, CA 95971
davidhollister@countyofplumas.com



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

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Paul E. Zellerbach, District Attorney
Riverside County
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Prop65@sacda.org

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330 West Broadway
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SanDiegoDAProp65@sdca.org

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San Diego City Attorney
1200 Third Avenue
San Diego, CA 92101
CityAttyProp65@sandiego.gov

Alexandra Grayner, Assistant District Attorney
San Francisco District Attorney's Office
350 Rhode Island Street
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Alexandra.grayner@sfgov.org

Henry Lifton, Deputy City Attorney
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Prop65@sfcityatty.org

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Stockton, CA 95202
DAConsumer.Environmental@sjcda.org

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San Luis Obispo, CA 93408
edobroth@co.slo.ca.us

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1112 Santa Barbara Street
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San Jose, CA 95110
EPU@da.sccgov.org

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200 E. Santa Clara Street, 16th Floor
San Jose, CA 96113
Proposition65notices@sanjoseca.gov

Jeffrey S. Rosell, District Attorney
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Prop65DA@santacruzcounty.us

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Phillip J. Cline, District Attorney
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Gregory D. Totten, District Attorney
Ventura County
800 S Victoria Ave
Ventura, CA 93009
daspecialops@ventura.org

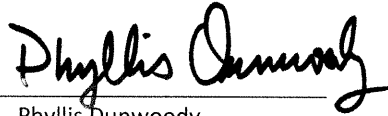
Jeff W. Reisig, District Attorney
Yolo County
301 Second Street
Woodland, CA 95695
cfepd@yolocounty.org



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On August 2, 2024, between 8:00 a.m. and 5:00 p.m. Eastern Time, I served the following documents: **NOTICE OF VIOLATION, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT** on each of the parties on the Service List attached hereto by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties on the Service List attached hereto, and depositing it at a U.S. Postal Service Office with the postage fully prepaid for delivery by First Class Mail.

Executed on August 2, 2024, in Fort Oglethorpe, Georgia.



Phyllis Dunwoody



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

August 2, 2024

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Service List

District Attorney, Alpine County
P.O. Box 248
17300 Hwy 89
Markleeville, CA 96120

District Attorney, Amador County
708 Court Street, Suite 202
Jackson, CA 95642

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

District Attorney, Colusa County
310 6th St
Colusa, CA 95932

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

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

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

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

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

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

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

District Attorney, Los Angeles
County
Hall of Justice
211 West Temple St., Ste 1200
Los Angeles, CA 90012

District Attorney, Madera County
300 South G Street, Ste 300
Madera, CA 93637

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

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

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

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

District Attorney, San Bernardino
County
303 West Third Street
San Bernardino, CA 92415

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

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

District Attorney, Sierra County
Post Office Box 457
100 Courthouse Square, 2nd Floor
Downieville, CA 95936

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

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

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

District Attorney, Sutter County
463 2nd Street
Yuba City, CA 95991

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

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

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

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

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

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: 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 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.

EXHIBIT B



Matthew Maclear
mcm@atalawgroup.com
415-568-5200

Anthony Barnes
amb@atalawgroup.com
917-371-8293

August 14, 2024

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

Dear Alleged Violators and the Appropriate Public Enforcement Agencies:

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

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

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

Alleged Violators. The names of the companies covered by this notice that violated Proposition 65 (hereinafter the "Violators") are:

**Zevia LLC
Zevia PBC**



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

1. Zevia Zero Sugar Soda Vanilla Cola Naturally Flavored - Lead, Mercury
2. Zevia Zero Sugar Soda Dr. Zevia Naturally Flavored - Mercury
3. Zevia Zero Sugar Soda Cola Naturally Flavored - Lead, Mercury
4. Zevia Zero Sugar Soda Cream Soda Naturally Flavored - Lead, Mercury
5. Zevia Zero Sugar Soda Cherry Cola Naturally Flavored – Lead, Mercury
6. Zevia Zero Sugar Soda Grape Naturally Flavored – Lead, Mercury

On February 27, 1987, the State of California officially listed lead as a chemical known to cause developmental toxicity, and male and female reproductive toxicity. On October 1, 1992, the State of California officially listed lead and lead compounds as chemicals known to cause cancer.

On July 1, 1990, the State of California officially listed mercury and mercury compounds as chemicals known to cause developmental toxicity and male and female reproductive toxicity.

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

Route of Exposure. The consumer exposures that are the subject of this notice result from the recommended use of these products. Consequently, the route of exposure to these chemicals has been and continues to be through ingestion.

Approximate Time Period of Violations. Ongoing violations have occurred every day since at least August 14, 2021, as well as every day since the products were introduced into the California marketplace, and will continue every day until clear and reasonable warnings are provided to product purchasers and users or until these known toxic chemicals are either removed from or reduced to allowable levels in the products. Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to the identified chemicals. The method of warning should be a warning that appears on the product label. The Violators violated Proposition 65 because they failed to provide persons ingesting these products with appropriate warnings that they are being exposed to these chemicals.

Consistent with the public interest goals of Proposition 65 and a desire to have these ongoing violations of California law quickly rectified, ERC is interested in seeking a constructive resolution of this matter that includes an enforceable written agreement by the Violators to: (1) reformulate the identified products so as to eliminate further exposures to the identified chemicals, or provide appropriate warnings on the labels of these products; (2) pay an appropriate civil penalty; and (3) provide clear and reasonable warnings compliant with Proposition 65 to all persons located in California who purchased the above products



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in the last three years. Such a resolution will prevent further unwarned consumer exposures to the identified chemicals, as well as an expensive and time-consuming litigation.

ERC has retained ATA Law Group as legal counsel in connection with this matter. **Please direct all communications regarding this Notice of Violation to my attention, or the attention of ATA partner Anthony Barnes, using the address or contact information indicated on the letterhead.**

Sincerely,

A handwritten signature in dark ink, appearing to read "Matthew Maclear". The signature is written in a cursive, flowing style.

Matthew Maclear
AQUA TERRA AERIS LAW GROUP

Attachments

Certificate of Merit
Certificate of Service
OEHHA Summary (to Zevia LLC, Zevia PBC, and their Registered Agents for Service of Process only)
Additional Supporting Information for Certificate of Merit (to AG only)



Notice of Violation of California Health & Safety Code §25249.5 *et seq.*
August 14, 2024
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CERTIFICATE OF MERIT

Re: Environmental Research Center, Inc.'s Notice of Proposition 65 Violations by Zevia LLC and Zevia PBC

I, Matthew Maclear, declare:

1. This Certificate of Merit accompanies the attached 60-day notice in which it is alleged that the parties identified in the notice violated California Health & Safety Code Section 25249.6 by failing to provide clear and reasonable warnings.

2. I am an attorney for the noticing party.

3. I have consulted with one or more persons with relevant and appropriate experience or expertise who have reviewed facts, studies, or other data regarding the exposure to the listed chemicals that are the subject of the notice.

4. Based on the information obtained through those consultants, and on other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for the private action" means that the information provides a credible basis that all elements of the plaintiff's case can be established and that the information did not prove that the alleged Violators will be able to establish any of the affirmative defenses set forth in the statute.

5. Along with the copy of this Certificate of Merit served on the Attorney General is attached additional factual information sufficient to establish the basis for this certificate, including the information identified in California Health & Safety Code §25249.7(h)(2), i.e., (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

Dated: August 14, 2024

Matthew Maclear



Notice of Violation of California Health & Safety Code §25249.5 *et seq.*
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CERTIFICATE OF SERVICE PURSUANT TO 27 CCR § 25903

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

I am a citizen of the United States and over the age of 18 years of age. My business address is 306 Joy Street, Fort Oglethorpe, Georgia 30742. I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at Fort Oglethorpe, Georgia.

On August 14, 2024, between 8:00 a.m. and 5:00 p.m. Eastern Time, I served the following documents: **NOTICE OF VIOLATION OF CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT; "THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY"** on the following parties by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties listed below and depositing it at a U.S. Postal Service Office with the postage fully prepaid for delivery by Certified Mail:

Current President or CEO
Zevia LLC and Zevia PBC
15821 Ventura Blvd, Suite 145
Encino, CA 91436

Cogency Global Inc.
(Registered Agent for Zevia LLC)
4459 B Bluebonnet Boulevard
Baton Rouge, LA 70809

Cogency Global Inc.
(Registered Agent for Zevia LLC and Zevia PBC)
1325 J Street, Suite 1550
Sacramento, CA 95814

Cogency Global Inc.
(Registered Agent for Zevia LLC)
1780 Barnes Boulevard SW
Tumwater, WA 98512

Cogency Global Inc.
(Registered Agent for Zevia LLC and Zevia PBC)
850 New Burton Road, Suite 201
Dover, DE 19904

On August 14, 2024, between 8:00 a.m. and 5:00 p.m. Eastern Time, I verified the following documents **NOTICE OF VIOLATIONS, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT; ADDITIONAL SUPPORTING INFORMATION FOR CERTIFICATE OF MERIT AS REQUIRED BY CALIFORNIA HEALTH & SAFETY CODE §25249.7(d)(1)** were served on the following party when a true and correct copy thereof was uploaded on the California Attorney General's website, which can be accessed at <https://oag.ca.gov/prop65/add-60-day-notice> :

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

On August 14, 2024, between 8:00 a.m. and 5:00 p.m. Eastern Time, I verified the following documents **NOTICE OF VIOLATIONS, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT** were served on the following parties when a true and correct copy thereof was sent via electronic mail to each of the parties listed below:



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

August 14, 2024

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Pamela Y. Price, District Attorney
Alameda County
7677 Oakport Street, Suite 650
Oakland, CA 94621
CEPDProp65@acgov.org

Barbara Yook, District Attorney
Calaveras County
891 Mountain Ranch Road
San Andreas, CA 95249
Prop65Env@co.calaveras.ca.us

Stacey Grassini, Deputy District Attorney
Contra Costa County
900 Ward Street
Martinez, CA 94553
sgrassini@contracostada.org

James Clinchard, Assistant District Attorney
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Placerville, CA 95667
EDCDAPROP65@edcda.us

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Fresno, CA 93721
conumerprotection@fresnocountyca.gov

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Independence, CA 93526
inyda@inyocounty.us

Devin Chandler, Program Coordinator
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Susanville, CA 96130
dchandler@co.lassen.ca.us

Lori E. Frugoli, District Attorney
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consumer@marincounty.org

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Mariposa, CA 95338
mcda@mariposacounty.org

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Prop65DA@co.monterey.ca.us

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Todd Spitzer, District Attorney
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Santa Ana, CA 92703
Prop65notice@ocdapa.org

Morgan Briggs Gire, District Attorney
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Roseville, CA 95678
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David Hollister, District Attorney
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Quincy, CA 95971
davidhollister@countyofplumas.com



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

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Paul E. Zellerbach, District Attorney
Riverside County
3072 Orange Street
Riverside, CA 92501
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Prop65@sacda.org

Summer Stephan, District Attorney
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SanDiegoDAProp65@sdca.org

Mark Ankorn, Deputy City Attorney
San Diego City Attorney
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San Diego, CA 92101
CityAttyProp65@sandiego.gov

Alexandra Grayner, Assistant District Attorney
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Alexandra.grayner@sfgov.org

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edobroth@co.slo.ca.us

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Santa Barbara, CA 93101
DAProp65@co.santa-barbara.ca.us

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San Jose, CA 95110
EPU@da.sccgov.org

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200 E. Santa Clara Street, 16th Floor
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Proposition65notices@sanjoseca.gov

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daspecialops@ventura.org

Jeff W. Reisig, District Attorney
Yolo County
301 Second Street
Woodland, CA 95695
cfepd@yolocounty.org



Notice of Violation of California Health & Safety Code §25249.5 *et seq.*
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On August 14, 2024, between 8:00 a.m. and 5:00 p.m. Eastern Time, I served the following documents: **NOTICE OF VIOLATION, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT** on each of the parties on the Service List attached hereto by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties on the Service List attached hereto, and depositing it at a U.S. Postal Service Office with the postage fully prepaid for delivery by First Class Mail.

Executed on August 14, 2024, in Fort Oglethorpe, Georgia.

Phyllis Dunwoody



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

August 14, 2024

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Service List

| | | |
|-----------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------|
| District Attorney, Alpine County P.O. Box 248 17300 Hwy 89 Markleeville, CA 96120 | District Attorney, Modoc County 204 S Court Street, Room 202 Alturas, CA 96101-4020 | District Attorney, Yuba County 215 Fifth Street, Suite 152 Marysville, CA 95901 |
| District Attorney, Amador County 708 Court Street, Suite 202 Jackson, CA 95642 | District Attorney, Mono County Post Office Box 617 Bridgeport, CA 93517 | Los Angeles City Attorney's Office City Hall East 200 N. Main Street, Suite 800 Los Angeles, CA 90012 |
| District Attorney, Butte County 25 County Center Drive, Suite 245 Oroville, CA 95965 | District Attorney, San Benito County 419 Fourth Street, 2nd Floor Hollister, CA 95023 | |
| District Attorney, Colusa County 310 6 th St Colusa, CA 95932 | District Attorney, San Bernardino County 303 West Third Street San Bernardino, CA 92415 | |
| District Attorney, Del Norte County 450 H Street, Room 171 Crescent City, CA 95531 | District Attorney, San Mateo County 400 County Ctr., 3rd Floor Redwood City, CA 94063 | |
| District Attorney, Glenn County Post Office Box 430 Willows, CA 95988 | District Attorney, Shasta County 1355 West Street Redding, CA 96001 | |
| District Attorney, Humboldt County 825 5th Street 4 th Floor Eureka, CA 95501 | District Attorney, Sierra County Post Office Box 457 100 Courthouse Square, 2 nd Floor Downieville, CA 95936 | |
| District Attorney, Imperial County 940 West Main Street, Ste 102 El Centro, CA 92243 | District Attorney, Siskiyou County Post Office Box 986 Yreka, CA 96097 | |
| District Attorney, Kern County 1215 Truxtun Avenue Bakersfield, CA 93301 | District Attorney, Solano County 675 Texas Street, Ste 4500 Fairfield, CA 94533 | |
| District Attorney, Kings County 1400 West Lacey Boulevard Hanford, CA 93230 | District Attorney, Stanislaus County 832 12th Street, Ste 300 Modesto, CA 95354 | |
| District Attorney, Lake County 255 N. Forbes Street Lakeport, CA 95453 | District Attorney, Sutter County 463 2 nd Street Yuba City, CA 95991 | |
| District Attorney, Los Angeles County Hall of Justice 211 West Temple St., Ste 1200 Los Angeles, CA 90012 | District Attorney, Tehama County Post Office Box 519 Red Bluff, CA 96080 | |
| District Attorney, Madera County 300 South G Street, Ste 300 Madera, CA 93637 | District Attorney, Trinity County Post Office Box 310 Weaverville, CA 96093 | |
| District Attorney, Mendocino County Post Office Box 1000 Ukiah, CA 95482 | District Attorney, Tuolumne County 423 N. Washington Street Sonora, CA 95370 | |

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: 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 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.

EXHIBIT C



Matthew Maclear
mcm@atalawgroup.com
415-568-5200

Anthony Barnes
amb@atalawgroup.com
917-371-8293

August 30, 2024

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

Dear Alleged Violators and the Appropriate Public Enforcement Agencies:

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

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

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

Alleged Violators. The names of the companies covered by this notice that violated Proposition 65 (hereinafter the "Violators") are:

**Zevia LLC
Zevia PBC**



Notice of Violation of California Health & Safety Code §25249.5 *et seq.*
August 30, 2024
Page 2

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

1. Zevia Zero Sugar Energy Drink Peach Passionfruit Naturally Flavored - Lead
2. Zevia Zero Sugar Energy Drink Raspberry Lime Naturally Flavored - Lead
3. Zevia Zero Sugar Tea Tropical Pineapple Sweetened Green Tea Naturally Flavored - Lead
4. Zevia Zero Sugar Tea Peach Sweetened Black Tea Naturally Flavored - Lead
5. Zevia Zero Sugar Tea Blood Orange Sweetened Earl Grey Tea Naturally Flavored - Lead
6. Zevia Zero Sugar Tea Passionfruit Sweetened Hibiscus Tea Naturally Flavored - Lead

On February 27, 1987, the State of California officially listed lead as a chemical known to cause developmental toxicity, and male and female reproductive toxicity. On October 1, 1992, the State of California officially listed lead and lead compounds as chemicals known to cause cancer.

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

Route of Exposure. The consumer exposures that are the subject of this notice result from the recommended use of these products. Consequently, the route of exposure to this chemical has been and continues to be through ingestion.

Approximate Time Period of Violations. Ongoing violations have occurred every day since at least August 30, 2021, as well as every day since the products were introduced into the California marketplace, and will continue every day until clear and reasonable warnings are provided to product purchasers and users or until this known toxic chemical is either removed from or reduced to allowable levels in the products. Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to the identified chemical. The method of warning should be a warning that appears on the product label. The Violators violated Proposition 65 because they failed to provide persons ingesting these products with appropriate warnings that they are being exposed to this chemical.

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



Notice of Violation of California Health & Safety Code §25249.5 *et seq.*
August 30, 2024
Page 3

ERC has retained ATA Law Group as legal counsel in connection with this matter. **Please direct all communications regarding this Notice of Violation to my attention, or the attention of ATA partner Anthony Barnes, using the address or contact information indicated on the letterhead.**

Sincerely,

A handwritten signature in dark ink, appearing to read "Matthew Maclear". The signature is fluid and cursive, with the first name "Matthew" written in a more compact, looped style and the last name "Maclear" in a more extended, flowing script.

Matthew Maclear
AQUA TERRA AERIS LAW GROUP

Attachments

Certificate of Merit
Certificate of Service
OEHHA Summary (to Zevia LLC, Zevia PBC, and their Registered Agents for Service of Process only)
Additional Supporting Information for Certificate of Merit (to AG only)



Notice of Violation of California Health & Safety Code §25249.5 *et seq.*
August 30, 2024
Page 4

CERTIFICATE OF MERIT

Re: Environmental Research Center, Inc.'s Notice of Proposition 65 Violations by Zevia LLC and Zevia PBC

I, Matthew Maclear, declare:

1. This Certificate of Merit accompanies the attached 60-day notice in which it is alleged that the parties identified in the notice violated California Health & Safety Code Section 25249.6 by failing to provide clear and reasonable warnings.

2. I am an attorney for the noticing party.

3. I have consulted with one or more persons with relevant and appropriate experience or expertise who have reviewed facts, studies, or other data regarding the exposure to the listed chemical that is the subject of the notice.

4. Based on the information obtained through those consultants, and on other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for the private action" means that the information provides a credible basis that all elements of the plaintiff's case can be established and that the information did not prove that the alleged Violators will be able to establish any of the affirmative defenses set forth in the statute.

5. Along with the copy of this Certificate of Merit served on the Attorney General is attached additional factual information sufficient to establish the basis for this certificate, including the information identified in California Health & Safety Code §25249.7(h)(2), i.e., (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

A handwritten signature in dark ink, appearing to read "Maclear", written over a horizontal line.

Dated: August 30, 2024

Matthew Maclear



Notice of Violation of California Health & Safety Code §25249.5 *et seq.*
August 30, 2024
Page 5

CERTIFICATE OF SERVICE PURSUANT TO 27 CCR § 25903

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

I am a citizen of the United States and over the age of 18 years of age. My business address is 306 Joy Street, Fort Oglethorpe, Georgia 30742. I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at Fort Oglethorpe, Georgia.

On August 30, 2024, between 8:00 a.m. and 5:00 p.m. Eastern Time, I served the following documents: **NOTICE OF VIOLATION OF CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT; "THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY"** on the following parties by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties listed below and depositing it at a U.S. Postal Service Office with the postage fully prepaid for delivery by Certified Mail:

Amy E Taylor, Chief Executive Officer
or Current President or CEO
Zevia LLC and Zevia PBC
15821 Ventura Blvd, Suite 145
Encino, CA 91436

Cogency Global Inc.
(Registered Agent for Zevia LLC and Zevia PBC)
850 New Burton Road, Suite 201
Dover, DE 19904

Zevia PBC, Manager
or Current President or CEO
Zevia LLC and Zevia PBC
15821 Ventura Blvd, Suite 145
Encino, CA 91436

Cogency Global Inc.
(Registered Agent for Zevia LLC)
4459 B Bluebonnet Boulevard
Baton Rouge, LA 70809

Cogency Global Inc.
(Registered Agent for Zevia LLC and Zevia PBC)
1325 J Street, Suite 1550
Sacramento, CA 95814

Cogency Global Inc.
(Registered Agent for Zevia LLC)
1780 Barnes Boulevard SW
Tumwater, WA 98512

On August 30, 2024, between 8:00 a.m. and 5:00 p.m. Eastern Time, I verified the following documents **NOTICE OF VIOLATIONS, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT; ADDITIONAL SUPPORTING INFORMATION FOR CERTIFICATE OF MERIT AS REQUIRED BY CALIFORNIA HEALTH & SAFETY CODE §25249.7(d)(1)** were served on the following party when a true and correct copy thereof was uploaded on the California Attorney General's website, which can be accessed at <https://oag.ca.gov/prop65/add-60-day-notice> :

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

On August 30, 2024, between 8:00 a.m. and 5:00 p.m. Eastern Time, I verified the following documents **NOTICE OF VIOLATIONS, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT** were served on the following parties when a true and correct copy thereof was sent via electronic mail to each of the parties listed below:



Notice of Violation of California Health & Safety Code §25249.5 *et seq.*
August 30, 2024
Page 6

Pamela Y. Price, District Attorney
Alameda County
7677 Oakport Street, Suite 650
Oakland, CA 94621
CEPDProp65@acgov.org

Walter W. Wall, District Attorney
Mariposa County
P.O. Box 730
Mariposa, CA 95338
mcda@mariposacounty.org

Barbara Yook, District Attorney
Calaveras County
891 Mountain Ranch Road
San Andreas, CA 95249
Prop65Env@co.calaveras.ca.us

Kimberly Lewis, District Attorney
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550 West Main St
Merced, CA 95340
Prop65@countyofmerced.com

Stacey Grassini, Deputy District Attorney
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900 Ward Street
Martinez, CA 94553
sgrassini@contracostada.org

Jeannine M. Pacioni, District Attorney
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Monterey, CA 93940
Prop65DA@co.monterey.ca.us

James Clinchard, Assistant District Attorney
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EDCDAPROP65@edcda.us

Allison Haley, District Attorney
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Napa, CA 94559
CEPD@countyofnapa.org

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Fresno, CA 93721
conumerprotection@fresnocountyca.gov

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inyda@inyocounty.us

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Prop65notice@ocdapa.org

Devin Chandler, Program Coordinator
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dchandler@co.lassen.ca.us

Morgan Briggs Gire, District Attorney
Placer County
10810 Justice Center Drive
Roseville, CA 95678
Prop65@placer.ca.gov

Lori E. Frugoli, District Attorney
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San Rafael, CA 94903
consumer@marincounty.org

David Hollister, District Attorney
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520 Main St
Quincy, CA 95971
davidhollister@countyofplumas.com



Notice of Violation of California Health & Safety Code §25249.5 *et seq.*
August 30, 2024
Page 7

Paul E. Zellerbach, District Attorney
Riverside County
3072 Orange Street
Riverside, CA 92501
Prop65@rivcoda.org

Anne Marie Schubert, District Attorney
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Sacramento, CA 95814
Prop65@sacda.org

Summer Stephan, District Attorney
San Diego County
330 West Broadway
San Diego, CA 92101
SanDiegoDAProp65@sdca.org

Mark Ankcorn, Deputy City Attorney
San Diego City Attorney
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San Diego, CA 92101
CityAttyProp65@sandiego.gov

Alexandra Grayner, Assistant District Attorney
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San Francisco, CA 94103
Alexandra.grayner@sfgov.org

Henry Lifton, Deputy City Attorney
San Francisco City Attorney
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San Francisco, CA 94102
Prop65@sfcityatty.org

Tori Verber Salazar, District Attorney
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222 E. Weber Avenue, Room 202
Stockton, CA 95202
DAConsumer.Environmental@sjcda.org

Eric J. Dobroth, Deputy District Attorney
San Luis Obispo County
County Government Center Annex, 4th Floor
San Luis Obispo, CA 93408
edobroth@co.slo.ca.us

Christopher Dalbey, Deputy District Attorney
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1112 Santa Barbara Street
Santa Barbara, CA 93101
DAProp65@co.santa-barbara.ca.us

Bud Porter, Supervising Deputy District Attorney
Santa Clara County
70 W Hedding St
San Jose, CA 95110
EPU@da.sccgov.org

Nora V. Frimann, City Attorney
Santa Clara City Attorney
200 E. Santa Clara Street, 16th Floor
San Jose, CA 96113
Proposition65notices@sanjoseca.gov

Jeffrey S. Rosell, District Attorney
Santa Cruz County
701 Ocean Street
Santa Cruz, CA 95060
Prop65DA@santacruzcounty.us

Jill Ravitch, District Attorney
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600 Administration Dr
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Jeannie.Barnes@sonoma-county.org

Phillip J. Cline, District Attorney
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Prop65@co.tulare.ca.us

Gregory D. Totten, District Attorney
Ventura County
800 S Victoria Ave
Ventura, CA 93009
daspecialops@ventura.org

Jeff W. Reisig, District Attorney
Yolo County
301 Second Street
Woodland, CA 95695
cfepd@yolocounty.org



Notice of Violation of California Health & Safety Code §25249.5 *et seq.*
August 30, 2024
Page 8

On August 30, 2024, between 8:00 a.m. and 5:00 p.m. Eastern Time, I served the following documents: **NOTICE OF VIOLATION, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT** on each of the parties on the Service List attached hereto by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties on the Service List attached hereto, and depositing it at a U.S. Postal Service Office with the postage fully prepaid for delivery by First Class Mail.

Executed on August 30, 2024, in Fort Oglethorpe, Georgia.

Phyllis Dunwoody



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

August 30, 2024

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Service List

| | | |
|-----------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------|
| District Attorney, Alpine County P.O. Box 248 17300 Hwy 89 Markleeville, CA 96120 | District Attorney, Modoc County 204 S Court Street, Room 202 Alturas, CA 96101-4020 | District Attorney, Yuba County 215 Fifth Street, Suite 152 Marysville, CA 95901 |
| District Attorney, Amador County 708 Court Street, Suite 202 Jackson, CA 95642 | District Attorney, Mono County Post Office Box 617 Bridgeport, CA 93517 | Los Angeles City Attorney's Office City Hall East 200 N. Main Street, Suite 800 Los Angeles, CA 90012 |
| District Attorney, Butte County 25 County Center Drive, Suite 245 Oroville, CA 95965 | District Attorney, San Benito County 419 Fourth Street, 2nd Floor Hollister, CA 95023 | |
| District Attorney, Colusa County 310 6 th St Colusa, CA 95932 | District Attorney, San Bernardino County 303 West Third Street San Bernardino, CA 92415 | |
| District Attorney, Del Norte County 450 H Street, Room 171 Crescent City, CA 95531 | District Attorney, San Mateo County 400 County Ctr., 3rd Floor Redwood City, CA 94063 | |
| District Attorney, Glenn County Post Office Box 430 Willows, CA 95988 | District Attorney, Shasta County 1355 West Street Redding, CA 96001 | |
| District Attorney, Humboldt County 825 5th Street 4 th Floor Eureka, CA 95501 | District Attorney, Sierra County Post Office Box 457 100 Courthouse Square, 2 nd Floor Downieville, CA 95936 | |
| District Attorney, Imperial County 940 West Main Street, Ste 102 El Centro, CA 92243 | District Attorney, Siskiyou County Post Office Box 986 Yreka, CA 96097 | |
| District Attorney, Kern County 1215 Truxtun Avenue Bakersfield, CA 93301 | District Attorney, Solano County 675 Texas Street, Ste 4500 Fairfield, CA 94533 | |
| District Attorney, Kings County 1400 West Lacey Boulevard Hanford, CA 93230 | District Attorney, Stanislaus County 832 12th Street, Ste 300 Modesto, CA 95354 | |
| District Attorney, Lake County 255 N. Forbes Street Lakeport, CA 95453 | District Attorney, Sutter County 463 2 nd Street Yuba City, CA 95991 | |
| District Attorney, Los Angeles County Hall of Justice 211 West Temple St., Ste 1200 Los Angeles, CA 90012 | District Attorney, Tehama County Post Office Box 519 Red Bluff, CA 96080 | |
| District Attorney, Madera County 300 South G Street, Ste 300 Madera, CA 93637 | District Attorney, Trinity County Post Office Box 310 Weaverville, CA 96093 | |
| District Attorney, Mendocino County Post Office Box 1000 Ukiah, CA 95482 | District Attorney, Tuolumne County 423 N. Washington Street Sonora, CA 95370 | |

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: 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 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.

EXHIBIT D



Matthew Maclear
mcm@atalawgroup.com
415-568-5200

Anthony Barnes
amb@atalawgroup.com
917-371-8293

September 13, 2024

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

Dear Alleged Violators and the Appropriate Public Enforcement Agencies:

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

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

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

Alleged Violators. The names of the companies covered by this notice that violated Proposition 65 (hereinafter the "Violators") are:

**Zevia LLC
Zevia PBC**



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

1. Zevia Zero Sugar Energy Drink Kola Naturally Flavored - Lead
2. Zevia Zero Sugar Energy Drink Watermelon Naturally Flavored - Lead
3. Zevia Zero Sugar Energy Drink Mango Ginger Naturally Flavored - Lead
4. Zevia Zero Sugar Energy Drink Strawberry Kiwi Naturally Flavored - Lead
5. Zevia Zero Sugar Energy Drink Pineapple Paradise Naturally Flavored - Lead, Mercury
6. Zevia Organic Tea Sweetened Black Tea Lemon - Lead

On February 27, 1987, the State of California officially listed lead as a chemical known to cause developmental toxicity, and male and female reproductive toxicity. On October 1, 1992, the State of California officially listed lead and lead compounds as chemicals known to cause cancer.

On July 1, 1990, the State of California officially listed mercury and mercury compounds as chemicals known to cause developmental toxicity and male and female reproductive toxicity.

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

Route of Exposure. The consumer exposures that are the subject of this notice result from the recommended use of these products. Consequently, the route of exposure to these chemicals has been and continues to be through ingestion.

Approximate Time Period of Violations. Ongoing violations have occurred every day since at least September 13, 2021, as well as every day since the products were introduced into the California marketplace, and will continue every day until clear and reasonable warnings are provided to product purchasers and users or until these known toxic chemicals are either removed from or reduced to allowable levels in the products. Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to the identified chemicals. The method of warning should be a warning that appears on the product label. The Violators violated Proposition 65 because they failed to provide persons ingesting these products with appropriate warnings that they are being exposed to these chemicals.

Consistent with the public interest goals of Proposition 65 and a desire to have these ongoing violations of California law quickly rectified, ERC is interested in seeking a constructive resolution of this matter that includes an enforceable written agreement by the Violators to: (1) reformulate the identified products so as to eliminate further exposures to the identified chemicals, or provide appropriate warnings on the labels of these products; (2) pay an appropriate civil penalty; and (3) provide clear and reasonable warnings compliant with Proposition 65 to all persons located in California who purchased the above products



Notice of Violation of California Health & Safety Code §25249.5 *et seq.*
September 13, 2024
Page 3

in the last three years. Such a resolution will prevent further unwarned consumer exposures to the identified chemicals, as well as an expensive and time-consuming litigation.

ERC has retained ATA Law Group as legal counsel in connection with this matter. **Please direct all communications regarding this Notice of Violation to my attention, or the attention of ATA partner Anthony Barnes, using the address or contact information indicated on the letterhead.**

Sincerely,

A handwritten signature in dark ink, appearing to read "Matthew Maclear". The signature is written in a cursive, flowing style.

Matthew Maclear
AQUA TERRA AERIS LAW GROUP

Attachments

Certificate of Merit
Certificate of Service
OEHHA Summary (to Zevia LLC, Zevia PBC, and their Registered Agents for Service of Process only)
Additional Supporting Information for Certificate of Merit (to AG only)



Notice of Violation of California Health & Safety Code §25249.5 *et seq.*
September 13, 2024
Page 4

CERTIFICATE OF MERIT

Re: Environmental Research Center, Inc.'s Notice of Proposition 65 Violations by Zevia LLC and Zevia PBC

I, Matthew Maclear, declare:

1. This Certificate of Merit accompanies the attached 60-day notice in which it is alleged that the parties identified in the notice violated California Health & Safety Code Section 25249.6 by failing to provide clear and reasonable warnings.

2. I am an attorney for the noticing party.

3. I have consulted with one or more persons with relevant and appropriate experience or expertise who have reviewed facts, studies, or other data regarding the exposure to the listed chemicals that are the subject of the notice.

4. Based on the information obtained through those consultants, and on other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for the private action" means that the information provides a credible basis that all elements of the plaintiff's case can be established and that the information did not prove that the alleged Violators will be able to establish any of the affirmative defenses set forth in the statute.

5. Along with the copy of this Certificate of Merit served on the Attorney General is attached additional factual information sufficient to establish the basis for this certificate, including the information identified in California Health & Safety Code §25249.7(h)(2), i.e., (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

Dated: September 13, 2024

A handwritten signature in dark ink, appearing to read "Maclear", written over a horizontal line.

Matthew Maclear



Notice of Violation of California Health & Safety Code §25249.5 *et seq.*
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CERTIFICATE OF SERVICE PURSUANT TO 27 CCR § 25903

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

I am a citizen of the United States and over the age of 18 years of age. My business address is 306 Joy Street, Fort Oglethorpe, Georgia 30742. I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at Fort Oglethorpe, Georgia.

On September 13, 2024, between 8:00 a.m. and 5:00 p.m. Eastern Time, I served the following documents: **NOTICE OF VIOLATION OF CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT; "THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY"** on the following parties by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties listed below and depositing it at a U.S. Postal Service Office with the postage fully prepaid for delivery by Certified Mail:

Amy E Taylor, Chief Executive Officer
or Current President or CEO
Zevia LLC and Zevia PBC
15821 Ventura Blvd, Suite 145
Encino, CA 91436

Cogency Global Inc.
(Registered Agent for Zevia LLC and Zevia PBC)
850 New Burton Road, Suite 201
Dover, DE 19904

Zevia PBC, Manager
or Current President or CEO
Zevia LLC and Zevia PBC
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Encino, CA 91436

Cogency Global Inc.
(Registered Agent for Zevia LLC)
4459 B Bluebonnet Boulevard
Baton Rouge, LA 70809

Cogency Global Inc.
(Registered Agent for Zevia LLC and Zevia PBC)
1325 J Street, Suite 1550
Sacramento, CA 95814

Cogency Global Inc.
(Registered Agent for Zevia LLC)
1780 Barnes Boulevard SW
Tumwater, WA 98512

On September 13, 2024, between 8:00 a.m. and 5:00 p.m. Eastern Time, I verified the following documents **NOTICE OF VIOLATIONS, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT; ADDITIONAL SUPPORTING INFORMATION FOR CERTIFICATE OF MERIT AS REQUIRED BY CALIFORNIA HEALTH & SAFETY CODE §25249.7(d)(1)** were served on the following party when a true and correct copy thereof was uploaded on the California Attorney General's website, which can be accessed at <https://oag.ca.gov/prop65/add-60-day-notice> :

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

On September 13, 2024, between 8:00 a.m. and 5:00 p.m. Eastern Time, I verified the following documents **NOTICE OF VIOLATIONS, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT** were served on the following parties when a true and correct copy thereof was sent via electronic mail to each of the parties listed below:



Notice of Violation of California Health & Safety Code §25249.5 *et seq.*
September 13, 2024
Page 6

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Notice of Violation of California Health & Safety Code §25249.5 *et seq.*
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Page 7

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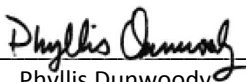
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cfepd@yolocounty.org



Notice of Violation of California Health & Safety Code §25249.5 *et seq.*
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On September 13, 2024, between 8:00 a.m. and 5:00 p.m. Eastern Time, I served the following documents: **NOTICE OF VIOLATION, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT** on each of the parties on the Service List attached hereto by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties on the Service List attached hereto, and depositing it at a U.S. Postal Service Office with the postage fully prepaid for delivery by First Class Mail.

Executed on September 13, 2024, in Fort Oglethorpe, Georgia.



Phyllis Dunwoody



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

| | | |
|-----------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------|
| District Attorney, Alpine County P.O. Box 248 17300 Hwy 89 Markleeville, CA 96120 | District Attorney, Modoc County 204 S Court Street, Room 202 Alturas, CA 96101-4020 | District Attorney, Yuba County 215 Fifth Street, Suite 152 Marysville, CA 95901 |
| District Attorney, Amador County 708 Court Street, Suite 202 Jackson, CA 95642 | District Attorney, Mono County Post Office Box 617 Bridgeport, CA 93517 | Los Angeles City Attorney's Office City Hall East 200 N. Main Street, Suite 800 Los Angeles, CA 90012 |
| District Attorney, Butte County 25 County Center Drive, Suite 245 Oroville, CA 95965 | District Attorney, San Benito County 419 Fourth Street, 2nd Floor Hollister, CA 95023 | |
| District Attorney, Colusa County 310 6 th St Colusa, CA 95932 | District Attorney, San Bernardino County 303 West Third Street San Bernardino, CA 92415 | |
| District Attorney, Del Norte County 450 H Street, Room 171 Crescent City, CA 95531 | District Attorney, San Mateo County 400 County Ctr., 3rd Floor Redwood City, CA 94063 | |
| District Attorney, Glenn County Post Office Box 430 Willows, CA 95988 | District Attorney, Shasta County 1355 West Street Redding, CA 96001 | |
| District Attorney, Humboldt County 825 5th Street 4 th Floor Eureka, CA 95501 | District Attorney, Sierra County Post Office Box 457 100 Courthouse Square, 2 nd Floor Downieville, CA 95936 | |
| District Attorney, Imperial County 940 West Main Street, Ste 102 El Centro, CA 92243 | District Attorney, Siskiyou County Post Office Box 986 Yreka, CA 96097 | |
| District Attorney, Kern County 1215 Truxtun Avenue Bakersfield, CA 93301 | District Attorney, Solano County 675 Texas Street, Ste 4500 Fairfield, CA 94533 | |
| District Attorney, Kings County 1400 West Lacey Boulevard Hanford, CA 93230 | District Attorney, Stanislaus County 832 12th Street, Ste 300 Modesto, CA 95354 | |
| District Attorney, Lake County 255 N. Forbes Street Lakeport, CA 95453 | District Attorney, Sutter County 463 2 nd Street Yuba City, CA 95991 | |
| District Attorney, Los Angeles County Hall of Justice 211 West Temple St., Ste 1200 Los Angeles, CA 90012 | District Attorney, Tehama County Post Office Box 519 Red Bluff, CA 96080 | |
| District Attorney, Madera County 300 South G Street, Ste 300 Madera, CA 93637 | District Attorney, Trinity County Post Office Box 310 Weaverville, CA 96093 | |
| District Attorney, Mendocino County Post Office Box 1000 Ukiah, CA 95482 | District Attorney, Tuolumne County 423 N. Washington Street Sonora, CA 95370 | |

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: 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 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.