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Food & Consumer Packaged Goods Litigation

Court Denies Plaintiff's Motion for Judgment on the Pleadings in Action Challenging Proposition 65 Regulatory Safe Harbor for Lead

Mateel Envtl. Justice v. OEHHA, No. RG15754547 (Cal. Super. Ct. – Alameda Cnty.): The Court denied Plaintiff's motion for judgment on the pleadings in this action seeking to invalidate the Proposition 65 regulatory safe harbor for lead. The Court rejected Plaintiff's assertion that the OEHHA adopted the safe harbor level after erroneously relying on a permissible exposure limit ("PEL") set by the Federal Occupational Safety and Health Administration ("OSHA"). Plaintiff contended that the OEHHA's reliance on the OSHA PEL was unscientific and arbitrary, rendering the safe harbor regulation invalid because it conflicts with the language of Proposition 65. The Court disagreed, denying the motion and expressly finding "the determination of how properly to set the MADL was made by an expert scientific agency reviewing complex scientific data and interpreting its own regulations in light of its scientific expertise, and its decisions were neither arbitrary nor capricious nor entirely lacking in evidentiary support." [Order](#).

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