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5 Foothill Ranch, CA 92610
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7 *Fax: (866) 843-8308*

8 *Attorney for Plaintiff*
9 *Calsafe Research Center, Inc.*

FILED
Superior Court of California
County of Alameda
10/17/2024
Clad Filke, Executive Officer / Clerk of the Court
By: A. Ampsonah Deputy
A. Ampsonah

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14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
15 **COUNTY OF ALAMEDA**

16
17
18 CALSAFE RESEARCH CENTER, INC., a
19 California non-profit corporation,

20 Plaintiff,

21 v.

22 JONS MARKETS, a California Stock
23 Corporation; and DOES 1 to 10,

24 Defendants.

Case No.: 23CV051091

~~PROPOSED~~ MODIFIED STIPULATED
CONSENT JUDGMENT

(Health & Safety Code § 25249, et seq.)

Complaint filed: November 13, 2023
Trial Date: TBD

Electronically Received 10/04/2024 10:36 AM

1 **I. INTRODUCTION**

2 **1.1 The Parties.** This Consent Judgment is entered into by and between Calsafe
3 Research Center, Inc. (“Calsafe” or “Plaintiff”), a California non-profit corporation, and Jons
4 Markets, a California Stock Corporation (“Jons” or “Defendant”) (collectively, the “Parties”).

5 **1.2 General Allegations.** On November 13, 2023, CalSafe initiated this action by
6 filing a Complaint for Civil Penalties and Injunctive Relief (the “Complaint”) pursuant to *Health*
7 *& Safety Code* § 25249.5 *et seq.* (“Proposition 65”) against Jons. In this action, Calsafe alleges
8 that the “Grzyby Suszone, Runoland Dried Mushrooms (UPC# 5901641000082”, “Jons,
9 Dehydrated Green Pomelo (UPC# 200772301811)”, “Jons, Dried Banana (UPC#
10 200795708314)”, “Jons, Dried Chili Mango (UPC# 200827003691), “Jons, Mango Slices
11 (UPC# 200766802638) and “Jons, Natural Dried Papaya (UPC# 200805007208) (collectively
12 the “Covered Product”) contain lead, a chemical listed under Proposition 65 as a carcinogen and
13 reproductive toxin. Calsafe alleges that the Covered Product exposes consumers to lead at a level
14 requiring a Proposition 65 warning. Calsafe alleges that Jons qualifies as a “Person” within the
15 meaning of Proposition 65, and that Jons manufactures, distributes, and/or offers for sale in the
16 State of California the Covered Product.

17 **1.3 Notice of Violation.** The Complaint is based on allegations contained in Calsafe’s
18 Notices of Violation dated May 5, 2023 (AG# 2023-01189) and May 9, 2023 (AG# 2023-01228)
19 (collectively the “Notice”), that were served on the California attorney General, other public
20 enforcers, and Jons. A true and correct copy of the Notice is attached hereto as **Exhibit A** and
21 incorporated by reference. More than 60 days have passed since the Notice was served on the
22 Attorney General, public enforcers, and Jons; no designated governmental entity has filed a
23 Complaint against Jons with regard to the Covered Product or the alleged violations.

24 **1.4** Calsafe’s Notice and Complaint allege that the use of the Covered Product by
25 California consumers exposes them to lead without first receiving a clear and reasonable warning
26 from Jons, which is a violation of California *Health & Safety Code* § 25249.6. Jons denies all
27 material allegations contained in the Notice and Complaint.

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1 **1.5** The Parties have entered into this Consent Judgment in order to settle,
 2 compromise, and resolve disputed claims and thus avoid prolonged and costly litigation. Jons
 3 denies the material, factual, and legal allegations in the Notice and Complaint and maintains that
 4 all of the products, including the Covered Product, that it sold and/or distributed for sale in
 5 California have been and are in compliance with all laws. Nothing in this Consent Judgment nor
 6 compliance with this Consent Judgment shall constitute or be construed as an admission by Jons
 7 or by any of their respective officers, directors, shareholders, employees, agents, parent
 8 companies, subsidiaries, divisions, affiliates, franchisees, licensees, customers, suppliers,
 9 distributors, wholesalers, or retailers of any fact, finding, conclusion, issue of law, or violation
 10 of law, such specifically denied by the Jons. This Section shall not, however, diminish or
 11 otherwise affect Jons’ obligations, responsibilities, and duties under this Consent Judgment.

12 **1.6** Except as expressly set forth herein, nothing in this Consent Judgment shall
 13 prejudice, waive, or impair any right, remedy, argument, or defense the Parties may have in any
 14 current or future legal proceeding unrelated to this proceeding.

15 **1.7 Effective Date.** For purposes of this Consent Judgment, the “Effective Date”
 16 shall be the date the Consent Judgment has been approved and entered by the Court.

17 **II. JURISDICTION AND VENUE**

18 **2.1** For purposes of this Consent Judgment and any further court action that may
 19 become necessary to enforce this Consent Judgment only, the Parties stipulate that this Court has
 20 subject matter jurisdiction over the allegations of violations contained in the Complaint and
 21 personal jurisdiction over Jons as to the acts alleged in the Complaint.

22 **2.2** For purposes of this Consent Judgment, the Parties stipulate that venue is proper
 23 in Los Angeles County, California, and that this Court has jurisdiction to enter this Consent
 24 judgment as a full and final resolution of all claims up through and including the Effective Date
 25 that were or could have been asserted in this action based on the facts alleged in the Notice and
 26 Complaint.

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1 **III. INJUNCTIVE RELIEF**

2 **3.1 Shipped for Sale in California.** “Shipped for Sale in California” means the
3 Covered Product that Jons either directly ships to California for sale in California, or that it sells
4 to a distributor or retailer who Jons knows will sell the Covered Product to consumers in
5 California. Where a retailer or distributor sells the Covered Product both in California and other
6 states, Jons shall take commercially reasonable steps to ensure that the only Covered Product
7 that is sold in California is in compliance with Paragraph 3.2 through 3.5.

8 **3.2 Clear and Reasonable Warnings, When Required.** Jons agrees by the
9 Effective Date to only manufacture for sale, purchase for sale, import for sale, or distribute for
10 sale in or into California (in-person or online) the Covered Product that contains a warning as
11 provided for in Paragraphs 3.4 through 3.5.

12 **3.3 Warning Requirements.** A clear and reasonable warning for the Covered
13 Product shall consist of a warning affixed to the packaging, label, tag, or directly to each Covered
14 Product Shipped for Sale in California by Jons that contains one of the following statements:

15 (A)

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

20 (B)

21 **WARNING:** Cancer and Reproductive Harm—www.P65Warnings.ca.gov/food.

22 The warning shall be offset in a box with a black outline and must be in a type size no
23 smaller than the largest type size used for other consumer information on the Covered Product.
24 “Consumer information” includes warnings, directions for use, ingredient lists, and nutritional
25 information. “Consumer information” does not include the brand name, product name, company
26 name, location of manufacture, or product advertising. In no case shall the warning appear in a
27 type size smaller than six (6) point type. Additionally, where the product sign, label, or shelf tag
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1 used to provide a warning includes consumer information in a language other than English, the
2 warning must also be provided in that language in addition to English.

3 **3.4 Warnings for Internet Sales.** For any Covered Product sold over the internet
4 where it will be shipped to California, the warning shall be displayed as follows: (A) on the
5 primary display page for the Covered Product; (B) as a clearly marked hyperlink using the word
6 “WARNING” in all capital and bold letters on the Covered Product’s primary display page, so
7 long as the hyperlink goes directly to a page prominently displaying the warning without content
8 that detracts from the warning; (C) on the checkout page or any other page in the checkout
9 process when a California delivery address is indicated for the purchase of the Covered Product
10 and with the warning clearly associated with the Covered Product to indicate that the Covered
11 Product is subject to the warning; or (D) by otherwise prominently displaying the warning to the
12 purchaser prior to completing the purchase of the Covered Product. The warning is not
13 prominently displayed if the purchaser must search for it in the general content of the website.

14 **3.5 Warning Prominence.** Jons agrees that each warning shall be prominently
15 placed with such conspicuousness, as compared with the other words, statements, designs, or
16 devices, as to render it likely to be read and understood by an ordinary individual under
17 customary conditions before purchase or use.

18 **3.6 Compliance with Clear and Reasonable Warning.** Jons shall be deemed to be
19 in compliance with this Consent Judgment after the Effective Date by (A) adhering to Paragraphs
20 3.2 through 3.5, or (B) by complying with any future warning requirements adopted by the State
21 of California’s Office of Environmental Health Hazard Assessment (“OEHHA) applicable to the
22 Covered Product and chemical at issue. If regulations or legislation are enacted or issued
23 providing that a Proposition 65 warning for the Covered Product is no longer required, a lack of
24 warning as set forth in this Consent Judgment will not thereafter be a breach of this Consent
25 Judgment.

26 **3.7 Grace Period of Existing Inventory.** The injunctive requirements of Section III
27 shall not apply to the Covered Product that is already in the stream of commerce as of the
28 Effective Date, which Covered Product is expressly subject to the releases provided in Section V.

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1 **3.8 Entry of Consent Judgment.** Upon execution of this Consent Judgment by the
2 Parties, CalSafe shall notice a Motion for Court Approval and, within ten (10) days of approval
3 of the Consent Judgment by the Court, comply with the requirements set forth in California
4 *Health & Safety Code* § 25249.7(f).

5 **3.9 Attorney General Objection.** If the California Attorney General objects to any
6 term in this Consent Judgment, the Parties shall use their best efforts to resolve the concern in a
7 timely manner, and if possible, prior to the hearing on the motion.

8 **3.10 Void if Not Approved.** If this Consent Judgment is not approved by the Court, it
9 shall be void and have no force or effect.

10 **IV. MONETARY TERMS**

11 **4.1 Total Settlement Amount.** In full satisfaction of all potential civil penalties,
12 additional settlement payments, attorney fees, and costs, Jons shall make a total payment of
13 Twenty-Five Thousand One Hundred Eighty Seven Dollars and Fifty Cents. (\$25,187.50) (the
14 “Total Settlement Amount”), apportioned into a Civil Penalty, and Attorney Fees and Costs as
15 set forth in Paragraphs 4.2 and 4.3, below.

16 **4.2 Civil Penalty Payment.** Pursuant to California *Health & Safety Code*
17 § 25249.7(b)(2) and in settlement of all claims alleged in the Notice and Complaint, Jons agrees
18 to pay Three Thousand Two Hundred and Fifty Dollars (\$3,250.00) in Civil Penalties. The Civil
19 Penalty payment will be apportioned in accordance with California *Health & Safety Code* §§
20 25249(c)(1), (d), with seventy-five (75) percent of these funds remitted to OEHHA, and the
21 remaining twenty-five (25) percent of the funds retained by CalSafe. Within ten (10) days of the
22 Effective Date, Jons shall issue a check to “OEHHA” in the amount of Two Thousand Four
23 Hundred and Thirty-Seven Dollars and Fifty Cents (\$2,437.50), with “Prop 65 Penalties” written
24 in the Memo Line; and Jons shall, pursuant to the instructions below, wire to CalSafe the amount
25 of Eight Hundred and Twelve Dollars and Fifty Cents (\$812.50).

26 All payments made to OEHHA (EIN: 68-0284486) pursuant to this Paragraph shall be
27 delivered directly to OEHHA at the following address:
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1 For United States Postal Delivery Service:

2 Mike Gyurics
3 Fiscal Operations Branch Chief
4 Office of Environmental Health Hazard Assessment
5 P.O. Box 4010
6 Sacramento, CA 95812-4010

7 For Non-United States Postal Delivery Service:

8 Mike Gyurics
9 Fiscal Operations Branch Chief
10 Office of Environmental Health Hazard Assessment
11 1001 I Street MS #19B
12 Sacramento, CA 95814

13 All penalty payments owed to CalSafe shall be sent via wire to:

14 **Wire Instructions:**

15 Account Name: The Law Offices of Joseph R. Manning
16 Bank Name: J.P. Morgan Chase Bank, N.A.
17 Bank Address: 270 Park Ave. New York, NY. 10017
18 Wire Routing / ABA Number: 021000021
19 Account Number: 802922919

20 For further benefit of: Civil Penalty Payment Case No. 23CV051091

21 **4.3 Attorney Fees and Costs.** Within ten (10) days of the Effective Date, Jons agrees
22 to pay Twenty-One Thousand Nine Hundred and Thirty Seven Dollars and Fifty Cents
23 (\$21,937.50) to CalSafe and its counsel of record for all fees and costs incurred in investigating,
24 bringing this matter to the attention of Jons, litigating, negotiation, and obtaining judicial approval
25 of a settlement in the public interest.

26 **Wire Instructions:**

27 Account Name: The Law Offices of Joseph R. Manning
28 Bank Name: J.P. Morgan Chase Bank, N.A.
Bank Address: 270 Park Ave. New York, NY. 10017
Wire Routing / ABA Number: 021000021
Account Number: 802922919

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1 For further benefit of: Attorney’s Fees Case No. 23CV051091

2 **4.4** In the event that Jons fails to remit the Total Settlement Amount or any portion
3 thereof owed under Paragraphs 4.1 through 4.3 of this Consent Judgment before the due date,
4 Jons shall be deemed to be in material breach of its obligations under this Consent Judgment.
5 CalSafe shall provide written notice of delinquency to Jons via electronic mail to Jons’ counsel
6 of record. If Jons fails to deliver any portion of or all of the Total Settlement Amount within five
7 (5) days from the written notice, the Total Settlement Amount shall accrue interest at the statutory
8 judgment interest rate provided in California *Code of Civil Procedure* § 685.010.

9 Additionally, Jons agrees to pay Calsafe’s reasonable attorney fees and costs for any
10 efforts to collect the payment due under this Consent Judgment.

11 **V. RETENTION OF JURISDICTION**

12 **5.1** This Court shall retain jurisdiction over this matter to enforce, modify, or terminate
13 this Consent Judgment.

14 **VI. MODIFICATION OF CONSENT JUDGMENT**

15 **6.1** This Consent Judgment may be modified only as to the injunctive terms by
16 (A) written stipulation of the Parties and upon entry by the Court of a modified consent judgment,
17 or (B) by motion of either Party pursuant to Paragraph 5.1 and upon entry by the Court of a
18 modified consent judgment.

19 **6.2** If Jons seeks to modify this Consent Judgment under Paragraph 5.1, then Jons
20 must provide written notice to Calsafe of its intent (“Notice of Intent”). If Calsafe seeks to meet
21 and confer regarding the proposed modification in the Notice of Intent, then Calsafe shall provide
22 written notice of intent to meet and confer to Jons within thirty (30) days of receiving the Notice
23 of Intent. The Parties shall then meet and confer in good faith in person, via telephone, or via
24 video conference within thirty (30) days of Calsafe’s written notice of intent to meet and confer.
25 Within thirty (30) days of such a meeting, if Calsafe disputes the proposed modification, Calsafe
26 shall provide Jons a written basis for its opposition. The Parties shall continue to meet and confer
27 for an additional thirty (30) days in an effort to resolve any remaining disputes. Should it become
28 necessary, the Parties may agree in writing to different deadlines for the meet-and-confer period.

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1 **6.3** In the event that Jons initiates or otherwise requests a modification under
2 Paragraph 5.1, and the meet and confer process leads to a joint motion or application for a
3 modification of the Consent Judgment, Jons shall reimburse Calsafe its costs and reasonable
4 attorney fees for the time spent in the meet-and-confer process and filing and arguing the motion.

5 **VII. BINDING EFFECT, CLAIMS COVERED, CLAIMS RELEASED**

6 **7.1** This Consent Judgment shall have no application to any Covered Product that is
7 distributed or sold exclusively outside the State of California and/or that is not used by California
8 consumers. Nothing in this Consent Judgment is intended to apply to any occupational or
9 environmental exposures arising under Proposition 65, nor shall it apply to any other Jons
10 products other than the Covered Product.

11 **7.2 Binding Effect.** This Consent Judgment is a full, final, and binding resolution
12 between Calsafe, on behalf of itself and its respective officers, directors, shareholders, employees,
13 agents, parent companies, subsidiaries, divisions, and affiliates and on behalf of the public
14 interest, and Jons and its respective officers, directors, shareholders, employees, agents, parent
15 companies, subsidiaries, divisions, affiliates, franchisees, licensees, customers, suppliers,
16 distributors, wholesalers, or retailers, and all other upstream and downstream entities in the
17 distribution chain of the Covered Product and the predecessors, successors, and assigns of any of
18 them (collectively, “Released Parties”).

19 **7.3** Compliance with the terms of this Consent Judgment shall be deemed to constitute
20 compliance with Proposition 65 by any of the Released Parties regarding alleged exposures to the
21 Covered Product as set forth in the Notice and Complaint.

22 **Calsafe Release of Jons(s).** This Consent Judgment is a full, final, and binding resolution
23 between Calsafe, acting on its own behalf, and on behalf of the public interest, and Jons, and its
24 parents, shareholders, members, directors, officers, managers, employees, representatives,
25 agents, attorneys, divisions, subdivisions, subsidiaries, partners, sister companies, and affiliates,
26 and their predecessors, successors and assigns (“Defendant Releasees”), and all entities from
27 whom they obtain and to whom they directly or indirectly distribute or sell Covered Products,
28 including but not limited to manufacturers, suppliers, distributors, wholesalers, customers,

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1 licensors, licensees retailers, including but not limited to, B&I Overseas Trading, Inc., and its
2 parents, subsidiaries, and affiliates, franchisees, and cooperative members (“Downstream
3 Releasees”), of all claims for violations of Proposition 65 based on exposure to Lead from use
4 of the Covered Products manufactured, distributed, or sold by Jons prior to the Effective Date as
5 set forth in the Notice. It is the Parties’ intention that this Consent Judgment shall have preclusive
6 effect such that no other actions by private enforcers, whether purporting to act in his, her, or its
7 interests or the public interest shall be permitted to pursue and take any action with respect to
8 any violation of Proposition 65 based on exposure to Lead from use of the Covered Products that
9 was alleged in the Complaint, or that could have been brought pursuant to the Notice against
10 Jons and the Downstream Releasees (“Proposition 65 Claims”). Jons’ compliance with the terms
11 of this Consent Judgment constitutes compliance with Proposition 65 by Jons with regard to
12 exposure to Lead from use of the Covered Products.

13 In addition to the foregoing, Calsafe, on behalf of itself, its past and current agents,
14 representatives, attorneys, and successors and assignees, and not in its representative capacity,
15 hereby waives all rights to institute or participate in, directly or indirectly, any form of legal
16 action and releases Jons, Defendant Releasees, and Downstream Releasees from any and all
17 manner of actions, causes of action, claims, demands, rights, suits, obligations, debts, contracts,
18 agreements, promises, liabilities, damages, charges, losses, costs, expenses, and attorneys’ fees,
19 of any nature whatsoever, known or unknown, in law or equity, fixed or contingent, now or in
20 the future, with respect to any alleged violations of Proposition 65 related to or arising from
21 Covered Products manufactured, distributed, or sold by Jons, Defendant Releasees or
22 Downstream Releasees.

23 **7.1** Calsafe on its own behalf only, and Jons on its own behalf only, further waives
24 and releases any and all claims they, their attorneys, or their representatives may have against
25 each other for all actions or statements made or undertaken in the course of seeking or opposing
26 enforcement of Proposition 65 in connection with the Notice and Complaint up through and
27 including the Effective Date, provided, however, that nothing in this Section shall affect or limit
28 any Party’s right to seek to enforce the terms of the Consent Judgment.

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1 **7.2 California Civil Code Section 1542.** It is possible that other claims not known to
2 the Parties, arising out of the facts alleged in the Notice and Complaint, and relating to the
3 Covered Product, will develop or be discovered. Calsafe on behalf of itself only, and JONS on
4 behalf of itself only, acknowledge that this Consent Judgment is expressly intended to cover and
5 include all such claims up through and including the Effective Date, including all rights of action
6 therefore. Calsafe and Jons acknowledge that the claims released in Section VII above may
7 include unknown claims, and nevertheless waive California Civil Code § 1542 as to any such
8 unknown claims. California *Civil Code* § 1542 reads as follows:

9
10 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE
11 CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO
12 EXIST IN HIS OR HER FAVOR, AT THE TIME OF EXECUTING THE
13 RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE
14 MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE
15 DEBTOR OR RELEASED PARTY.

14 **VIII. SEVERABILITY**

15 **8.1** In the event that any of the provisions of this Consent Judgment are held by a court
16 of competent jurisdiction to be unenforceable, the validity of the remaining enforceable
17 provisions shall not be adversely affected.

18 **IX. GOVERNING LAW**

19 **9.1** The terms and conditions of this Consent Judgment shall be governed by and
20 construed in accordance with the laws of the State of California.

21 **X. PROVISION OF NOTICE**

22 **10.1** All notices required to be given to either Party to this Consent Judgment by the
23 other shall be in writing and sent to the following agents listed below via first-class mail or
24 electronic mail. Any Party may modify the person/entity or address to whom the notice is to be
25 sent by sending the other Party notice by certified mail, return receipt requested. Said change shall
26 take effect on the date the return receipt is signed by the Party receiving the change.
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1 Notice for Calsafe shall be sent to:

2 Joseph R. Manning, Jr.
3 26100 Towne Center Drive
4 Foothill Ranch, CA 92610
5 Tel: Office (949) 200-8757 Fax: (866) 843-8309
6 p65@manninglawoffice.com

7 Notice for Jons shall be sent to:

8 Eric P. Weiss
9 SCALI RASMUSSEN, PC
10 300 S. Grand Avenue, Suite 2750
11 Los Angeles, CA 90071
12 Tel: (213) 254-3667
13 eweiss@scalilaw.com

14 **XI. EXECUTED IN COUNTERPARTS**

15 **11.1** This Consent Judgment may be executed in counterparts, which taken together
16 shall be deemed to constitute one document. A facsimile or .PDF signature page shall be
17 construed to be as valid as the original signature.

18 **XII. DRAFTING**

19 **12.1** The terms of this Consent Judgment have been reviewed by the respective counsel
20 for each Party prior to its signing, and each Party has had the opportunity to fully discuss the
21 terms and conditions with legal counsel. The Parties agree that, in any subsequent interpretation
22 and construction of this Consent Judgment, no inference, assumption, or presumption shall be
23 drawn, and no provision of this Consent Judgment shall be construed against any Party, based
24 on the fact that one of the Parties and/or one of the Parties' legal counsel prepared and/or drafted
25 all or any portion of the Consent Judgment. It is conclusively presumed that all of the Parties
26 participate equally in the preparation and drafting of this Consent Judgment.

27 **XIII. GOOD FAITH ATTEMPT TO RESOLVE DISPUTES**

28 **13.1** If a dispute with respect to either Party's compliance with the terms of this
Consent Judgment entered by the Court, the Parties shall meet and confer in person, by
telephone, by video conference, and/or in writing and endeavor to resolve the dispute in an

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1 amicable manner. No action or motion may be filed with the Court in the absence of such a good
2 faith attempt to resolve the dispute beforehand.

3 **XIV. ENFORCEMENT**

4 **14.1** The Parties may, by motion or order to show cause before the Superior Court of
5 Los Angeles County, enforce the terms and conditions of this Consent Judgment. In any
6 successful action brought by Calsafe to enforce this Consent Judgment, Calsafe may seek
7 whatever fines, costs, penalties, or remedies as are provided by law for failure to comply with
8 this Consent Judgment.

9 **XV. ENTIRE AGREEMENT, AUTHORIZATION**

10 **15.1** This Consent Judgment contains the sole and entire agreement and understanding
11 of the Parties with respect to the entire subject matter herein, including any and all prior
12 discussions, negotiations, commitments, and understandings related thereto. No representations,
13 oral or otherwise, express or implied, other than those contained herein have been made by any
14 party. No other agreements, oral or otherwise, unless specifically referred to herein, shall be
15 deemed to exist or to bind any Party.

16 **15.2** Each signatory to this Consent Judgment certifies that he or she is fully authorized
17 by the Party he or she represents to stipulate to this Consent Judgment.

18 **XVI. REQUEST FOR FINDINGS, APPROVAL, AND ENTRY.**

19 **16.1** This Consent Judgment has come before the Court upon the request of the Parties.
20 The Parties request the Court to fully review this Consent Judgment and, being fully informed
21 regarding the matters which are the subject of this action, make the findings pursuant to
22 California *Health and Safety Code* § 25249(f)(4) and approve this Consent Judgment.

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1 **IT IS SO STIPULATED.**

2
3 DATED: October 3, 2024

MANNING LAW, APC

4 By: 
5 Joseph Manning, Jr.


6 *Attorney for Plaintiff*
7 *Calsafe Research Center, Inc.*

8 **CALSAFE RESEARCH CENTER, INC.**

9 DATED: 10/3/2024, 2024

10 By: 
11 Eric Fairon, CEO
12 Calsafe Research Center, Inc.

13 DATED: October 3, 2024

14 
15 By: _____
16 Eric P. Weiss,
17 *Attorney for Defendant*
18 *Jons Markets*

JONS MARKETS

19
20 DATED: _____, 2024

21 By: _____

22 Jons Markets, a California Stock Corporation

23
24
25 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that, pursuant to *Health & Safety*
26 *Code § 25249.7(f)(4)* and *Code of Civil Procedure § 664.6*, judgment is hereby entered.

27 Dated: _____

28 _____
JUDGE OF THE SUPERIOR COURT

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CALSAFE RESEARCH CENTER, INC.

1
2 DATED: _____, 2024

By: _____
Eric Fairon, CEO
Calsafe Research Center, Inc.

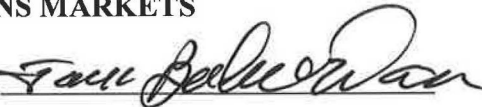
3
4
5
6 DATED: _____, 2024

7 By: _____

8
9 *Attorney for Defendant*
10 *Jons Markets*

11
12
13
14 DATED: 10/31 -, 2024

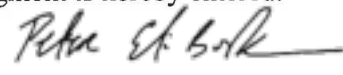
JONS MARKETS

By: 

Jons Markets, a California Stock Corporation

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17
18
19 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that, pursuant to *Health & Safety*
20 *Code § 25249.7(f)(4)* and *Code of Civil Procedure § 664.6*, judgment is hereby entered.

21 Dated: 10/17/2024



JUDGE OF THE SUPERIOR COURT
Peter Borkon / Judge

Exhibit A



MANNING LAW_{APC}

26100 Towne Centre Drive
Foothill Ranch, CA 92610
Office: 949.200.8755
Facsimile: 866.843.8308
P65@manninglawoffice.com

CONSUMER ATTORNEYS

May 5, 2023

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 CalSafe Research Center, Inc. ("CRC"), 4533 MacArthur Blvd., Ste. 165, Newport Beach, CA 92660; Tel. (949) 630-0413. CRC's Executive Director is Eric Fairon. CRC 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.

CRC 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), CRC intends to pursue 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 person/company covered by this notice that violated Proposition 65 (hereinafter the "Violators") are:

1. B&I Overseas Trading, Inc.
2. JONS Marketplace



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26100 Towne Centre Drive
Foothill Ranch, CA 92610
Office: 949.200.8755
Facsimile: 866.843.8308
P65@manninglawoffice.com

CONSUMER ATTORNEYS

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:

Grzyby Suszone, Runoland Dried Mushrooms, UPC#590164100082

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 CRC 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 **April 10, 2023**, 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, CRC 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.

CRC has retained me as legal counsel in connection with this matter. **Please direct all communications regarding this Notice of Violation to my attention at the law office**



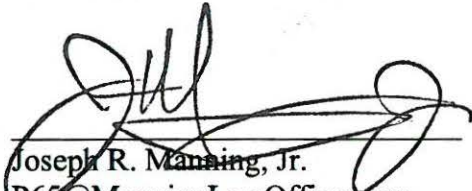
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Foothill Ranch, CA 92610
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Facsimile: 866.843.8308
P65@manninglawoffice.com

CONSUMER ATTORNEYS

**address and telephone number indicated on the letterhead or at
P65@ManningLawOffice.com.**

Sincerely,



Joseph R. Manning, Jr.
P65@ManningLawOffice.com

Attachments

- Certificate of Merit
- Certificate of Service
- OEHHA Summary (to Alleged Violators only)
- Factual Information in Support of Certificate of Merit (to AG only)



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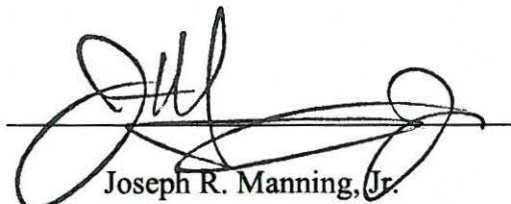
CERTIFICATE OF MERIT

Re: Calsafe Research Center, Inc.'s Notice of Proposition 65 Violations by B&I Overseas Trading, Inc., and JONS Marketplace

I, Joseph R. Manning, Jr., 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 consultations, 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: May 5, 2023



Joseph R. Manning, Jr.
P65@ManningLawOffice.com



CONSUMER ATTORNEYS

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 26100 Towne Centre Drive, Foothill Ranch, CA 92610. I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at Foothill Ranch, California.

On May 5, 2023 between 8:00 a.m. and 5:00 p.m. Pacific Standard 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:

CEO Donatas Inda or Current CEO, President, or General Counsel B&I Overseas Trading, Inc. 7712 Densmore Ave Van Nuys, CA 91406	Current CEO, President, or General Counsel JONS Marketplace 5315 Santa Monica Blvd Los Angeles, CA 90029
--	--

On May 5, 2023 between 8:00 a.m. and 5:00 p.m. Pacific Standard Time, I verified the following documents **NOTICE OF VIOLATIONS, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT INCLUDING A SUMMARY OF CONFIDENTIAL FACTUAL INFORMATION; 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



CONSUMER ATTORNEYS

On May 5, 2023 between 8:00 a.m. and 5:00 p.m. Pacific Standard 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:

Nancy O'Malley, District Attorney Alameda County 7677 Oakport Street, Suite 650 Oakland, CA 94621 CEPDP65@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	Thomas L. Hardy, District Attorney Inyo County 168 North Edwards Street Independence, CA 93526 inyoda@inyocounty.us
Michelle Latimer, Program Coordinator Lassen County 220 S. Lassen Street Susanville, CA 96130 mlatimer@co.lassen.ca.us	Dije Ndreu, Deputy District Attorney Monterey County 1200 Aguajito Road Monterey, CA 93940 Prop65DA@co.monterey.ca.us
Allison Haley, District Attorney Napa County 1127 First Street, Suite C Napa, CA 94559 CEPD@countyofnapa.org	Michael Hestrin, District Attorney Riverside County 3072 Orange Street Riverside, CA 92501 Prop65@rivcoda.org
Anne Marie Schubert, District Attorney Sacramento County 901 G Street Sacramento, CA 95814 Prop65@sacda.org	Mark Ankcorn, Deputy City Attorney San Diego City Attorney 1200 Third Avenue San Diego, CA 92101 CityAttyProp65@sandiego.gov
Gregory Alker, Assistant District Attorney San Francisco County 732 Brannan Street San Francisco, CA 94103 gregory.alker@sfgov.org	Valerie Lopez, Deputy City Attorney San Francisco City Attorney 1390 Market Street, 7 th Floor San Francisco, CA 94102 Valerie.Lopez@sfcityatty.org
Tori Verber Salazar, District Attorney San Joaquin County	Eric J. Dobroth, Deputy District Attorney San Luis Obispo County



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CONSUMER ATTORNEYS

222 E. Weber Avenue, Room 202 Stockton, CA 95202 DAConsumer.Environmental@sjcda.org	County Government Center Annex, 4 th Floor San Luis Obispo, CA 93408 edobroth@co.slo.ca.us
Christopher Dalbey, Deputy District Attorney Santa Barbara County 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
Stephan R. Passalacqua, District Attorney Sonoma County 600 Administration Dr Sonoma, CA 95403 jbarnes@sonoma-county.org	Phillip J. Cline, District Attorney Tulare County 221 S Mooney Blvd Visalia, CA 95370 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

On May 5, 2023 between 8:00 a.m. and 5:00 p.m. Pacific Standard Time, I served the following documents: **NOTICE OF VIOLATION, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.**; **CERTIFICATE OF MERIT** on each 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 May 5, 2023, in Foothill Ranch, California.

Krystal Garzon



CONSUMER ATTORNEYS

Service List

District Attorney, Alpine County P.O. Box 248 Markleeville, CA 96120	District Attorney, Madera County 209 West Yosemite Avenue Madera, CA 93637	District Attorney, San Mateo County 400 County Ctr., 3rd Floor Redwood City, CA 94063
District Attorney, Amador County 708 Court Street, Suite 202 Jackson, CA 95642	District Attorney, Marin County 3501 Civic Center Drive, Room 130 San Rafael, CA 94903	District Attorney, Shasta County 1355 West Street Redding, CA 96001
District Attorney, Butte County 25 County Center Drive, Suite 245 Oroville, CA 95965	District Attorney, Mariposa County Post Office Box 730 Mariposa, CA 95338	District Attorney, Sierra County 100 Courthouse Square, 2nd Floor Downieville, CA 95936
District Attorney, Colusa County 310 6 th Street Colusa, CA 95932	District Attorney, Mendocino County Post Office Box 1000 Ukiah, CA 95482	District Attorney, Siskiyou County Post Office Box 986 Yreka, CA 96097
District Attorney, Del Norte County 450 H Street, Room 171 Crescent City, CA 95531	District Attorney, Merced County 550 W. Main Street Merced, CA 95340	District Attorney, Solano County 675 Texas Street, Ste 4500 Fairfield, CA 94533
District Attorney, El Dorado County 778 Pacific St Placerville, CA 95667	District Attorney, Modoc County 204 S Court Street, Room 202 Alturas, CA 96101-4020	District Attorney, Stanislaus County 832 12th Street, Ste 300 Modesto, CA 95354
District Attorney, Fresno County 2100 Tulare St., Fresno, CA 93721	District Attorney, Mono County Post Office Box 617 Bridgeport, CA 93517	District Attorney, Sutter County 463 2 nd Street Yuba City, CA 95991
District Attorney, Glenn County Post Office Box 430 Willows, CA 95988	District Attorney, Nevada County 201 Commercial Street Nevada City, CA 95959	District Attorney, Tehama County Post Office Box 519 Red Bluff, CA 96080
District Attorney, Humboldt County 825 5th Street 4 th Floor Eureka, CA 95501	District Attorney, Placer County 10810 Justice Center Drive, Ste 240 Roseville, CA 95678	District Attorney, Trinity County Post Office Box 310 Weaverville, CA 96093
District Attorney, Imperial County 940 West Main Street, Ste 102 El Centro, CA 92243	District Attorney, Plumas County 520 Main Street, Room 404 Quincy, CA 95971	District Attorney, Tuolumne County 423 N. Washington Street Sonora, CA 95370
District Attorney, Kern County 1215 Truxtun Avenue Bakersfield, CA 93301	District Attorney, San Benito County 419 Fourth Street, 2nd Floor Hollister, CA 95023	District Attorney, Yuba County 215 Fifth Street, Suite 152 Marysville, CA 95901
District Attorney, Kings County 1400 West Lacey Boulevard Hanford, CA 93230	Los Angeles City Attorney's Office City Hall East 200 N. Main Street, Suite 800 Los Angeles, CA 90012	San Jose City Attorney's Office 200 East Santa Clara Street, 16th Floor San Jose, CA 95113
District Attorney, Lake County 255 N. Forbes Street Lakeport, CA 95453	District Attorney, San Diego County 330 West Broadway, Suite 1300 San Diego, CA 92101	District Attorney, Los Angeles County Hall of Justice 211 West Temple St., Ste 1200 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.



MANNING LAW_{APC}

26100 Towne Centre Drive
Foothill Ranch, CA 92610
Office: 949.200.8755
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P65@manninglawoffice.com

CONSUMER ATTORNEYS

May 9, 2023

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 CalSafe Research Center, Inc. ("CRC"), 4533 MacArthur Blvd., Ste. 165, Newport Beach, CA 92660; Tel. (949) 630-0413. CRC's Executive Director is Eric Fairon. CRC 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.

CRC 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), CRC intends to pursue 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 person/company covered by this notice that violated Proposition 65 (hereinafter the "Violators") are:

1. JONS Marketplace



MANNING LAW_{APC}

26100 Towne Centre Drive
Foothill Ranch, CA 92610
Office: 949.200.8755
Facsimile: 866.843.8308
P65@manninglawoffice.com

CONSUMER ATTORNEYS

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:

Jons, Dehydrated Green Pomelo, UPC#200772301811

Jons, Dried Banana, UPC#200795708314

Jons, Dried Chili Mango, UPC#200827003691

Jons, Mango Slice, UPC#200766802638

Jons, Natural Dried Papaya, UPC#200805007208

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 CRC 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 **April 10, 2023**, 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, CRC 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



MANNING LAW_{APC}

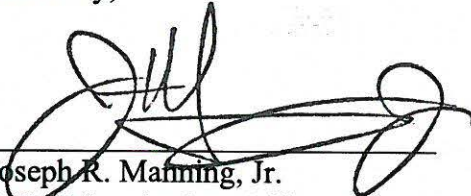
26100 Towne Centre Drive
Foothill Ranch, CA 92610
Office: 949.200.8755
Facsimile: 866.843.8308
P65@manninglawoffice.com

CONSUMER ATTORNEYS

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.

CRC has retained me as legal counsel in connection with this matter. **Please direct all communications regarding this Notice of Violation to my attention at the law office address and telephone number indicated on the letterhead or at P65@ManningLawOffice.com.**

Sincerely,



Joseph R. Manning, Jr.
P65@ManningLawOffice.com

Attachments

- Certificate of Merit
- Certificate of Service
- OEHHA Summary (to Alleged Violators only)
- Factual Information in Support of Certificate of Merit (to AG only)



MANNING LAW_{APC}

26100 Towne Centre Drive
Foothill Ranch, CA 92610
Office: 949.200.8755
Facsimile: 866.843.8308
P65@manninglawoffice.com

CONSUMER ATTORNEYS

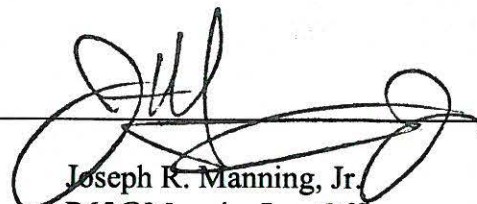
CERTIFICATE OF MERIT

Re: Calsafe Research Center, Inc.'s Notice of Proposition 65 Violations by JONS Marketplace

I, Joseph R. Manning, Jr., 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 consultations, 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: May 9, 2023


Joseph R. Manning, Jr.
P65@ManningLawOffice.com



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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 26100 Towne Centre Drive, Foothill Ranch, CA 92610. I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at Foothill Ranch, California.

On May 9, 2023 between 8:00 a.m. and 5:00 p.m. Pacific Standard 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:

JONS Marketplace Agent John Berberian 5315 Santa Monica Blvd Los Angeles, CA 90029	Current CEO, President, or General Counsel JONS Marketplace 5315 Santa Monica Blvd Los Angeles, CA 90029
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On May 9, 2023 between 8:00 a.m. and 5:00 p.m. Pacific Standard Time, I verified the following documents **NOTICE OF VIOLATIONS, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT INCLUDING A SUMMARY OF CONFIDENTIAL FACTUAL INFORMATION; 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



CONSUMER ATTORNEYS

On May 9, 2023 between 8:00 a.m. and 5:00 p.m. Pacific Standard 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:

Nancy O'Malley, 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	Thomas L. Hardy, District Attorney Inyo County 168 North Edwards Street Independence, CA 93526 inyoda@inyocounty.us
Michelle Latimer, Program Coordinator Lassen County 220 S. Lassen Street Susanville, CA 96130 mlatimer@co.lassen.ca.us	Dije Ndreu, Deputy District Attorney Monterey County 1200 Aguajito Road Monterey, CA 93940 Prop65DA@co.monterey.ca.us
Allison Haley, District Attorney Napa County 1127 First Street, Suite C Napa, CA 94559 CEPD@countyofnapa.org	Michael Hestrin, District Attorney Riverside County 3072 Orange Street Riverside, CA 92501 Prop65@rivcoda.org
Anne Marie Schubert, District Attorney Sacramento County 901 G Street Sacramento, CA 95814 Prop65@sacda.org	Mark Ankcorn, Deputy City Attorney San Diego City Attorney 1200 Third Avenue San Diego, CA 92101 CityAttyProp65@sandiego.gov
Gregory Alker, Assistant District Attorney San Francisco County 732 Brannan Street San Francisco, CA 94103 gregory.alker@sfgov.org	Valerie Lopez, Deputy City Attorney San Francisco City Attorney 1390 Market Street, 7 th Floor San Francisco, CA 94102 Valerie.Lopez@sfcityatty.org
Tori Verber Salazar, District Attorney San Joaquin County	Eric J. Dobroth, Deputy District Attorney San Luis Obispo County



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CONSUMER ATTORNEYS

222 E. Weber Avenue, Room 202 Stockton, CA 95202 DAConsumer.Environmental@sjcda.org	County Government Center Annex, 4 th Floor San Luis Obispo, CA 93408 edobroth@co.slo.ca.us
Christopher Dalbey, Deputy District Attorney Santa Barbara County 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
Stephan R. Passalacqua, District Attorney Sonoma County 600 Administration Dr Sonoma, CA 95403 jbarnes@sonoma-county.org	Phillip J. Cline, District Attorney Tulare County 221 S Mooney Blvd Visalia, CA 95370 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

On May 9, 2023 between 8:00 a.m. and 5:00 p.m. Pacific Standard Time, I served the following documents: **NOTICE OF VIOLATION, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.**; **CERTIFICATE OF MERIT** on each 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 May 9, 2023, in Foothill Ranch, California.

Krystal Garzon



CONSUMER ATTORNEYS

Service List

District Attorney, Alpine County P.O. Box 248 Markleeville, CA 96120	District Attorney, Madera County 209 West Yosemite Avenue Madera, CA 93637	District Attorney, San Mateo County 400 County Ctr., 3rd Floor Redwood City, CA 94063
District Attorney, Amador County 708 Court Street, Suite 202 Jackson, CA 95642	District Attorney, Marin County 3501 Civic Center Drive, Room 130 San Rafael, CA 94903	District Attorney, Shasta County 1355 West Street Redding, CA 96001
District Attorney, Butte County 25 County Center Drive, Suite 245 Oroville, CA 95965	District Attorney, Mariposa County Post Office Box 730 Mariposa, CA 95338	District Attorney, Sierra County 100 Courthouse Square, 2nd Floor Downieville, CA 95936
District Attorney, Colusa County 310 6 th Street Colusa, CA 95932	District Attorney, Mendocino County Post Office Box 1000 Ukiah, CA 95482	District Attorney, Siskiyou County Post Office Box 986 Yreka, CA 96097
District Attorney, Del Norte County 450 H Street, Room 171 Crescent City, CA 95531	District Attorney, Merced County 550 W. Main Street Merced, CA 95340	District Attorney, Solano County 675 Texas Street, Ste 4500 Fairfield, CA 94533
District Attorney, El Dorado County 778 Pacific St Placerville, CA 95667	District Attorney, Modoc County 204 S Court Street, Room 202 Alturas, CA 96101-4020	District Attorney, Stanislaus County 832 12th Street, Ste 300 Modesto, CA 95354
District Attorney, Fresno County 2100 Tulare St., Fresno, CA 93721	District Attorney, Mono County Post Office Box 617 Bridgeport, CA 93517	District Attorney, Sutter County 463 2nd Street Yuba City, CA 95991
District Attorney, Glenn County Post Office Box 430 Willows, CA 95988	District Attorney, Nevada County 201 Commercial Street Nevada City, CA 95959	District Attorney, Tehama County Post Office Box 519 Red Bluff, CA 96080
District Attorney, Humboldt County 825 5th Street 4th Floor Eureka, CA 95501	District Attorney, Placer County 10810 Justice Center Drive, Ste 240 Roseville, CA 95678	District Attorney, Trinity County Post Office Box 310 Weaverville, CA 96093
District Attorney, Imperial County 940 West Main Street, Ste 102 El Centro, CA 92243	District Attorney, Plumas County 520 Main Street, Room 404 Quincy, CA 95971	District Attorney, Tuolumne County 423 N. Washington Street Sonora, CA 95370
District Attorney, Kern County 1215 Truxtun Avenue Bakersfield, CA 93301	District Attorney, San Benito County 419 Fourth Street, 2nd Floor Hollister, CA 95023	District Attorney, Yuba County 215 Fifth Street, Suite 152 Marysville, CA 95901
District Attorney, Kings County 1400 West Lacey Boulevard Hanford, CA 93230	Los Angeles City Attorney's Office City Hall East 200 N. Main Street, Suite 800 Los Angeles, CA 90012	San Jose City Attorney's Office 200 East Santa Clara Street, 16th Floor San Jose, CA 95113
District Attorney, Lake County 255 N. Forbes Street Lakeport, CA 95453	District Attorney, San Diego County 330 West Broadway, Suite 1300 San Diego, CA 92101	District Attorney, Los Angeles County Hall of Justice 211 West Temple St., Ste 1200 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.

APPENDIX A

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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.

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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>.

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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.