

NOTICE OF VIOLATION

California Safe Drinking Water and Toxic Enforcement Act

Perfluorooctanoic Acid (PFOA) and Perfluorooctane Sulfonate (PFOS) in Waterproof Rain Jackets

October 24, 2022

This Notice of Violation (the "Notice") is provided to you pursuant to and in compliance with California Health and Safety Code Section 25249.7(d).

- For general information regarding the California Safe Drinking Water and Toxic Enforcement Act, see the attached summary provided by the California EPA (copies not provided to public enforcement agencies).
- This Notice is provided by the Center for Environmental Health ("CEH"), 2201 Broadway, Suite 508, Oakland, CA 94612, (510) 655-3900. CEH is a nonprofit corporation dedicated to protecting the environment, improving human health, and supporting environmentally sound practices. Kaya Allan Sugerman is the Illegal Toxic Threats Program Director of and a responsible individual within CEH.

Description of Violation:

- Violators: The name and address of the violator is:

Recreational Equipment, Inc. (REI)
1700 45TH ST E STE 101
SUMNER, WA, 98390
- Time Period of Exposure: The violations have been occurring since at least October 24, 2019 and are ongoing.
- Provision of Proposition 65: This Notice covers the "warning provision" of Proposition 65, which is found at California Health and Safety Code Section 25249.6.
- Chemical(s) Involved: The names of the listed chemicals involved in these violations are Perfluorooctanoic Acid ("PFOA") and Perfluorooctane Sulfonate ("PFOS"). Exposures to PFOA and PFOS occur from dermal and hand to mouth exposures with the products identified in this Notice.
- Type of Product: The specific type of product causing these violations is waterproof rain jackets ("Rain Jackets"). Non-exclusive examples of this specific type of product are identified below:
 - REI Co-op Women's Junction Cycling Rain Jacket, Item #157194

- REI Co-op Rainwall Rain Jacket – Kids’, Item #144536
- Description of Exposure: This Notice addresses consumer exposures to PFOA and PFOS in Rain Jackets. Use of the products identified in this Notice results in human exposures to PFOA and PFOS. The routes of exposure for the violations are: (1) dermal absorption directly through the skin when consumers touch, handle and/or wear the products during ordinary use; and (2) ingestion via hand to mouth contact after consumers touch or handle the products. No clear and reasonable warning is provided with the Products regarding the developmental hazards of PFOA and PFOS.

Resolution of Noticed Claims:

Based on the allegations set forth in this Notice, CEH intends to file a citizen enforcement lawsuit against the alleged violator unless such violator agrees in a binding written instrument to: (1) recall products already sold; (2) provide clear and reasonable warnings for products sold in the future or reformulate such products to eliminate the PFOA and PFOS exposures; and (3) pay an appropriate civil penalty based on the factors enumerated in California Health and Safety Code Section 25249.7(b). If the alleged violator is interested in resolving this dispute without resort to expensive and time-consuming litigation, please feel free to contact CEH through its counsel identified below. It should be noted that CEH cannot: (1) finalize any settlement until after the 60-day notice period has expired; nor (2) speak for the Attorney General or any District or City Attorney who received CEH’s 60-day Notice. Therefore, while reaching an agreement with CEH will resolve its claims, such agreement may not satisfy the public prosecutors.

Preservation of Relevant Evidence:

This Notice also serves as a demand that the alleged violator preserve and maintain all relevant evidence, including all electronic documents and data, pending resolution of this matter. Such relevant evidence includes but is not limited to all documents relating to the presence or potential presence of PFOA and PFOS in Rain Jackets; purchase and sales information for such products; efforts to comply with Proposition 65 with respect to such products; communications with any person relating to the presence or potential presence of PFOA and PFOS in such products; and representative exemplars of each of the products sold by each alleged violator in the year preceding this Notice through the date of any trial of the claims alleged in this Notice.

Please direct any inquiries regarding this Notice to CEH’s counsel, Mark N. Todzo, at Lexington Law Group, 503 Divisadero Street, San Francisco, CA 94117, (415) 913-7800, mtodzo@lexlawgroup.com.

CERTIFICATE OF MERIT
Health & Safety Code § 25249.7(d)

I, Mark N. Todzo, hereby declare:

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

2. I am an attorney with the Lexington Law Group, and I represent the noticing party, the Center for Environmental Health.

3. Members of my firm and I have consulted with one or more persons with relevant and appropriate experience or expertise who has reviewed facts, studies, or other data regarding the exposures to the listed chemical that is the subject of the action.

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 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. The copy of the Certificate of Merit served on the Attorney General attaches to it factual information sufficient to establish the basis for this certificate, including the information identified in Health & 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.

October 24, 2022



Mark N. Todzo
Attorney for CENTER FOR
ENVIRONMENTAL HEALTH

1 **PROOF OF SERVICE**

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3 I, Alexis Pearson, declare:

4 I am a citizen of the United States and employed in the County of San Francisco, State of
5 California. I am over the age of eighteen (18) years and not a party to this action. My business
6 address is 503 Divisadero Street, San Francisco, CA 94117 and my email address is
apearson@lexlawgroup.com.

7 On October 24, 2022, I served the following document(s) on all interested parties in this
8 action by placing a true copy thereof in the manner and at the addresses indicated below:

9 **NOTICE OF VIOLATION OF CALIFORNIA SAFE DRINKING WATER AND
10 TOXIC ENFORCEMENT ACT;**

11 **CERTIFICATE OF MERIT;** and

12 **THE SAFE DRINKING AND TOXIC ENFORCEMENT ACT OF 1986
13 (PROPOSITION 65): A SUMMARY** (only sent to those on service list marked with an
14 asterisk).

15 **BY MAIL:** I am readily familiar with the firm’s practice for collecting and processing mail
16 with the United States Postal Service (“USPS”). Under that practice, mail would be deposited
17 with USPS that same day with postage thereon fully prepaid at San Francisco, California in the
18 ordinary course of business. On this date, I placed sealed envelopes containing the above
19 mentioned documents for collection and mailing following my firm’s ordinary business practices.

20 *Please see attached service list.*

21 **BY ELECTRONIC MAIL:** I transmitted a PDF version of the document(s) listed above via
22 email to the email address(es) indicated on the attached service list [or noted above] before 5 p.m.
23 on the date executed.

24 Stacey Grassini, Deputy District Attorney
25 Contra Costa County
26 900 Ward Street
27 Martinez, CA 94553
28 sgrassini@contracostada.org

Bud Porter
Supervising Deputy District Attorney
Santa Clara County
70 West Hedding Street, West Wing
San Jose, CA 95110
epu@da.sccgov.org

Thomas L. Hardy, District Attorney
168 North Edwards Street
Independence, CA 93526
inyoda@inyocounty.us

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

Michelle Latimer, Program Coordinator
Lassen County
220 S. Lassen Street
Susanville, CA 96130
mlatimer@co.lassen.ca.us

Allison Haley, District Attorney
Napa County
1127 First Street, Suite C
Napa, CA 94559
CEPD@countyofnapa.org

1 Stephan R. Passalacqua, District Attorney
2 Sonoma County
3 600 Administration Drive, Rm. 212J
4 Santa Rosa, CA 95403
5 jbarnes@sonoma-county.org

4 Phillip J. Cline, District Attorney
5 Tulare County
6 221 S. Mooney Avenue, Rm. 224
7 Visalia, CA 93291
8 Prop65@co.tulare.ca.us

7 Paul E. Zellerbach, District Attorney
8 Riverside County
9 4075 Main Street
10 Riverside, CA 92501
11 Prop65@rivcoda.org

10 Jeff W. Reisig, District Attorney
11 Yolo County
12 301 Second Street
13 Woodland, CA 95695
14 cfepd@yolocounty.org

14 Walter W. Hall, District Attorney
15 Mariposa County
16 P.O. Box 730
17 Mariposa, CA 95338
18 mcda@mariposacounty.org

17 Kimberly Lewis, District Attorney
18 Merced County
19 550 West Main Street
20 Merced, CA 95340
21 Prop65@countyofmerced.com

20 Jeannine M. Pacioni, Deputy DA
21 Monterey County
22 1200 Aguajito Road
23 Monterey, CA 93940
24 Prop65DA@co.monterey.ca.us

23 Clifford H. Newell, District Attorney
24 Nevada County
25 201 Commercial Street
26 Nevada City, CA 95959
27 DA.prop65@co.nevada.ca.us

26 Morgan Briggs Gire, District Attorney
27 Placer County
28 Roseville, CA 95678
Prop65@placer.ca.gov

David Hollister, District Attorney
Plumas County
520 Main Street
Quincy, CA 95971
davidhollister@countyofplumas.com

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

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

Valery Lopez, Deputy City Attorney
1390 Market Street, 7th Floor
Valerie.lopez@sfcityatty.org
San Francisco, CA 94102

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

Mark Ankcorn, Deputy City Attorney
San Diego County
1200 Third Avenue
San Diego, CA 92101
CityAttyProp65@sandiego.gov

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

Alexandra Grayner, Assistant District
Attorney
350 Rhode Island Street
San Francisco, CA 94103
alexandra.grayner@sfgov.org

Anne Marie Schubert, District Attorney
Sacramento Country
901 G Street
Sacramento, CA 95814
Prop65@sacda.org

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

7 Jeffrey S. Rosell, District Attorney
8 Santa Cruz County
9 701 Ocean Street
10 Santa Cruz, CA 95060
11 Prop65DA@santacruzcounty.us

12 Lisa A. Smittcamp, District Attorney
13 2100 Tulare Street
14 Fresno, CA 93721
15 Phone: (559) 600-3141
16 consumerprotection@fresnocountyca.gov

Nancy O'Malley, District Attorney
Alameda County
7776 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

17 I declare under penalty of perjury under the laws of the State of California that the
18 foregoing is true and correct.

19 Executed on October 24, 2022 at San Francisco, California.

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Alexis Pearson

SERVICE LIST

District Attorney of Alpine County
P.O. Box 248
Markleeville, CA 96120

District Attorney of Amador County
708 Court Street, Ste. 202
Jackson, CA 95642

District Attorney of Butte County
Administration Building
25 County Center Drive
Oroville, CA 95965

District Attorney of Colusa County
346 Fifth Street, Suite 101
Colusa, CA 95932

District Attorney of Del Norte County
450 H Street, Ste. 171
Crescent City, CA 95531

District Attorney of El Dorado County
778 Pacific Street
Placerville, CA 95667

District Attorney of Glenn County
P.O. Box 430
Willows, CA 95988

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

District Attorney of Imperial County
939 Main Street, Ste. 102
El Centro, CA 92243

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

District Attorney of Kings County
1400 West Lacey Blvd.
Hanford, CA 93230

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

District Attorney of Los Angeles County
Hall of Justice
211 W. Temple Street, Ste. 1200
Los Angeles, CA 90012-3210

District Attorney of Madera County
209 West Yosemite Avenue
Madera, CA 93637

District Attorney of Marin County
3501 Civic Center Drive, Rm. 130
San Rafael, CA 94903

District Attorney of Mendocino County
P.O. Box 1000
Ukiah, CA 95482

District Attorney of Modoc County
204 S. Court Street, Rm. 202
Alturas, CA 96101-4020

District Attorney of Mono County
P.O. Box 617
Bridgeport, CA 93546

District Attorney of Orange County
300 N Flower St.
Santa Ana, CA 92703

District Attorney of San Benito County
419 Fourth Street, 2nd Fl.
Hollister, CA 95023

District Attorney of San Bernardino County
316 N. Mountain View Avenue
San Bernardino, CA 92415

District Attorney of San Mateo County
400 County Center, 3rd Fl.
Redwood City, CA 94063

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

District Attorney of Sierra County
Courthouse
100 Courthouse Sq., 2nd Fl.
Downieville, CA 95936

District Attorney of Siskiyou County
P.O. Box 986
Yreka, CA 96097

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

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

District Attorney of Sutter County
446 Second Street
Yuba City, CA 95991

District Attorney of Tehama County
P.O. Box 519
Red Bluff, CA 96080

District Attorney of Trinity County
P.O. Box 310
11 Court Street
Weaverville, CA 96093

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

District Attorney of Yuba County
215 Fifth Street
Marysville, CA 95901

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

San Jose City Attorney's Office
200 East Santa Clara Street
San Jose, CA 95113

California Attorney General's Office
Attention: Proposition 65 Coordinator and
Robert Thomas
1515 Clay Street, Ste. 2000
P.O. Box 70550
Oakland, CA 94612-0550

Eric Artz, CEO*
Recreational Equipment, Inc.
1700 45TH ST E STE 101
Sumner, WA, 98390