LAW OFFICES BRODSKY SMITH

9595 WILSHIRE BLVD., STE. 900 BEVERLY HILLS, CA 90212 877.534.2590 www.brodskysmith.com

NEW JERSEY OFFICE 1310 NORTH KINGS HIGHWAY CHERRY HILL, NJ 08934 856.795.7250 NEW YORK OFFICE 240 MINEOLA BOULEVARD MINEOLA, NY 11501 516,741,4977 PENNSYLVANIA OFFICE TWO BALA PLAZA, STE. 805 BALA CYNWYD, PA 19004 610.667.6200

August 7, 2023

President/CEO	President/CEO
Dunoon Ceramics Limited	Dunoon Ceramics Limited
Hamilton Street Dunoon	Floor 1
Argyll SCOTLAND PA23 7RG	Quay 2
UNITED KINGDOM	139 Fountainbridge
	Edinburgh EH39QG
	Scotland
	UNITED KINGDOM
President/CEO	President/CEO/Owner
Dunoon Ceramics Holdings Limited	Dunoon USA
Unit 5	9 Carriage Road
Walton Industrial Estate Stone	Ellsworth, ME 04605
Staffordshire	
UNITED KINGDOM ST 15 0RY	
President/CEO	President/CEO
Bar Harbor Tea Company, Inc.	The TJX Companies, Inc.
c/o Jeffrey W. Spaulding	c/o The Corporation Trust Company
PO Box 1210	Corporation Trust Center
Bangor, ME 04402-1210	1209 Orange Street
	Wilmington, DE 19801
President/CEO	President/CEP
The TJX Companies, Inc. dba Marshalls	The TJX Companies, Inc.
c/o The Corporation Trust Company	c/o CT Corporation System
Corporation Trust Center	101 Federal Street
1209 Orange Street	Boston, MA 02110
Wilmington, DE 19801	

60-Day Notice of Violation of California Safe Drinking Water and Toxic Enforcement Act1

To Whom It May Concern:

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

Brodsky Smith represents Precila Balabbo ("Balabbo"), a citizen of the State of California acting in the interest of the general public to promote awareness of exposures to toxic chemicals from use of consumer products sold in California and to improve human health and the environment by reducing hazardous substances.

¹ The public enforcement agencies that have been served with copies of this Notice are identified in the attached distribution list accompanying the Certificate of Service.

With respect to the Product herein, Balabbo has identified a violation of California's Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65") codified at Cal. Health & Safety Code § 25249.5, et seq. This violation has occurred and continues to occur because the alleged Violator(s) failed to provide a clear and reasonable health hazard warning in connection with the sale or use of the Product in California. Health & Safety Code § 25249.6 provides that "[n]o person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to the State to cause cancer or reproductive toxicity without first providing a clear and reasonable warning to such individual ..." Without proper warnings regarding the toxic effects of exposures to the Listed Chemical resulting from use of the Product, California citizens lack the information necessary to make informed decisions on whether and/or how to eliminate (or reduce) the risk of exposure to the Listed Chemical from the reasonably foreseeable use of the Product.

I. DESCRIPTION OF THE VIOLATION

- Enforcer: Precila Balabbo, 285 6th Street, Unit 209, San Pedro, CA 90731; (Ph) 818-434-4023.
- 2. Alleged Violator(s): Dunoon Ceramics Limited; Dunoon Ceramics Holdings Limited; Dunoon USA; Bar Harbor Tea Company, Inc.; The TJX Companies, Inc.; The TJX Companies, Inc. dba Marshalls
- 3. Time Period of Exposure: Violations have been occurring since at least August 7, 2023 and are continuing to this day.
- **4. Listed Chemical**: Lead. Lead is listed under Proposition 65 as a chemical known to the State to cause cancer and birth defects or other reproductive harm.

5. Product:

Product ²	Non- Exclusive Examples of the Product
Mug	Poppies by Anne Searle Mug

6. Description of Exposure: The exposures that are the subject of this Notice result from the purchase, acquisition, handling and recommended use of the Product. The primary route of exposure to the Listed Chemical is through dermal absorption directly through the skin when consumers use, touch, or handle the Products. Some amount of exposure through ingestion can occur by touching the Product with subsequent touching of the user's hand to mouth. No clear and reasonable warning is provided with the Products regarding the health hazards of exposure to the Listed Chemical.

II. PROPOSITION 65 INFORMATION

For the Violators' reference, enclosed is a copy of "Proposition 65: A Summary" that has been prepared by the Office of Environmental Health Hazard Assessment ("OEHHA"). For more information concerning the provisions of Proposition 65, contact OEHHA at 916.445.6900.

² The specifically identified example of the Product in this Notice is to assist the recipients' investigation of, among other things, the magnitude of potential exposures to the Listed Chemical from other items within the definition of Products. This example is not intended to be an exhaustive or comprehensive identification of each specific offending Product. It is Balabbo's position that the alleged Violators are obligated to conduct a good faith investigation into other Products that may have been manufactured, distributed, sold, shipped, stored (or otherwise within the alleged Violators' custody or control) during the relevant period to ensure that requisite health hazard warnings were and are provided to California citizens prior to purchase and use.

III. RESOLUTION OF THE CLAIMS

Based on the allegations set forth in this Notice, Brodsky Smith intends to file a citizen enforcement lawsuit on behalf of Balabbo against the alleged Violator(s) unless such Violator(s) agree in a binding written agreement to: (1) recall Products already sold; (2) provide Proposition 65 compliant exposure warnings for Products sold in the future or reformulate the Products to eliminate exposures to the Listed Chemical; and (3) pay an appropriate civil penalty based on the factors enumerated in Health & Safety Code § 25249.7(b). Consistent with the public interest goals of Proposition 65 and the desire to have these violations of California law quickly rectified, Balabbo is interested in seeking a constructive resolution of the claims in this Notice without engaging in costly and protracted litigation.

Balabbo has retained me as legal counsel in connection with this Notice. Please direct all communications regarding this Notice to my attention at Brodsky Smith, 9595 Wilshire Blvd., Ste. 900, Beverly Hills, CA 90212, (877) 534-2590, esmith@brodskysmith.com.

Sincerely,

Evan J. Smith

Attachments

Certificate of Merit Certificate of Service

The Safe Drinking Water and Toxic Enforcement Action of 1986 (Proposition 65): A Summary

CERTIFICATE OF MERIT

Health & Safety Code Section 25249.7(d)

I, Evan J. Smith, hereby declare:

- (1) This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged the parties identified in the notice have violated Health & Safety Code Section 25249.6 by failing to provide clear and reasonable warnings.
- (2) I am the attorney for the noticing party, Precila Balabbo.
- (3) I have consulted with one or more persons with relevant and appropriate experience or expertise who has reviewed facts, studies or other data regarding the alleged exposure to the listed chemicals that are the subject of the action.
- (4) Based on the information obtained through these consultations, and on all 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 private action" means that the information provides a credible basis that all elements of the plaintiffs' case can be established and the information did not prove that the alleged violator(s) will be able to establish any of the affirmative defenses set forth in the statute.
- (5) The copy of this Certificate of Merit served on the Attorney General attaches to it factual information sufficient to establish the basis for this certificate, including information identified in Health & Safety Code Section 25249.7(h)(2), i.e., (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

Dated: August 7, 2023

Evan J. Smith

Attorney for Precila Balabbo

CERTIFICATE OF SERVICE

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

I am a citizen of the United States, over the age of 18 years of age, and am not a party to the within action. My business address is 2 Bala Plaza, Suite 805, Bala Cynwyd, Pennsylvania. I am employed in Montgomery County where the mailing occurred.

On August 7, 2023 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 Action of 1986 (Proposition 65): A Summary on the following entities and individuals listed below by placing a true and correct copy thereof in a sealed envelope, addressed to the person or entity listed below and depositing it in a US Postal Service Office with postage fully prepaid for delivery by Certified Mail:

President/CEO	President/CEO
Dunoon Ceramics Limited	Dunoon Ceramics Limited
Hamilton Street Dunoon	Floor 1
Argyll SCOTLAND PA23 7RG	Quay 2
UNITED KINGDOM	139 Fountainbridge
	Edinburgh EH39QG
	Scotland
	UNITED KINGDOM
President/CEO	President/CEO/Owner
Dunoon Ceramics Holdings Limited	Dunoon USA
Unit 5	9 Carriage Road
Walton Industrial Estate Stone	Ellsworth, ME 04605
Staffordshire	
UNITED KINGDOM ST 15 0RY	
President/CEO	President/CEO
Bar Harbor Tea Company, Inc.	The TJX Companies, Inc.
c/o Jeffrey W. Spaulding	c/o The Corporation Trust Company
PO Box 1210	Corporation Trust Center
Bangor, ME 04402-1210	1209 Orange Street
	Wilmington, DE 19801
President/CEO	President/CEP
The TJX Companies, Inc. dba Marshalls	The TJX Companies, Inc.
c/o The Corporation Trust Company	c/o CT Corporation System
Corporation Trust Center	101 Federal Street
1209 Orange Street	Boston, MA 02110
Wilmington, DE 19801	

On August 7, 2023, 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 Action of 1986 (Proposition 65): A Summary on each of the individuals on the service list attached hereto as Appendix B by placing a true and correct copy thereof in a sealed envelope, addressed to the person or entity listed below and depositing it in a US Postal Service Office with postage fully prepaid for delivery by Priority Mail.

Executed August 7, 2023, in Bala Cynwyd, Pennsylvania.

Evan J. Smith

ELECTRONIC MAIL SERVICE LIST

The Honorable Nancy O'Malley Alameda County District Attorney	The Honorible Tori Voyber Salzar San longuin Councy Diswict Autrasy	Monorable Anne Marie Schubert Sagmento County District Attorney
V 170 Dakport Street Suite 650	222 E. Weber Avenue, Room 202	901 G Street
Oakhand, CA 94621	Stackton, CA 95202	Sacramento, CA 95814
CEPDProp65@acgiv.org	DACommingr. Environmental (@sjedn.org	Prop63@sacda.org
The Honorable Allison Haley	The Honorable Jeffrey S. Rosell	The Honorable Summer Stephan
Napa County District Attorney	Sunta Cruz County District Attorney	San Diego County District Attorney
1127 First St., Suite C	201 Ocean Street	300 West Broadway
Napa, CA 94559	Sunts Cruz, CA 95060	San Diego, CA 92101
CEPD@countyofnapa.org	PrephSDA@santacsuzeounty.us	SanDiegoDAProp65@sdcda.org
The Honorable Jeff W. Reisig	Michelle Latimer, Program Coordinator	Mark Ankcorn, Deputy City Attorney
Yolo County District Attorney	Lassen County	City of San Diego
301 Second Street	220 S. Lassen Street	1200 Third Avenue
Woodland, CA 95695	Susagville, CA 96130	San Diego, CA 92101
stendial volucounty org	mlatimes@co.lassen.co.us	CityAttyProp65@sandiego.gov
Bud Porter	Alefhea M. Sargent	
Supervising Deputy District Attorney	Assistant District Attorney	Christopher Dalbey,
Santa Clara County	San Francisco District Attorney's Office	Deputy District Attorney
0 W Hedding Street	350 Rhode Island Street	Sauta Barbara County
ian Jose, CA 95110	Soc Francisco CA 04102	1112 Santa Barbara Street
PURRESCOROV ore	San Francisco, CA 94103	Santa Barbora, CA 93101
he Honorable Gregory D. Totten	alethen sargent@sfgroy.osg	DAProp6S@co.santa-barbara.ca.us
entura County District Attorney	The Honorable Barbara Yook	Valerie Lopez, Deputy City Attorney
UU S Victoria Avenue	Calaveras County District Attorney	Office of the City Attorney
entura, CA 93009	891 Mountain Ranch Road	1390 Market Street, 7th Floor
aspecialops@ventura.org	San Andreas, CA 95249	San Francisco, CA 94102
tacey Grassini	Promissiny@go.outaverus.on.us	Valorie Lapozialsfortyarty.org
eputy District Attorney	Brie J. Dobroth	Demnine M. Pacioni
ontra Costa County	Deputy District Automey	Deputy District Attorney
No Ward Street	San Luis Obispo County	Monterey County
artinez, CA 94553	County Govt Center Annex, 4th Floor	1200 Aguajito Road
rassimi@contracostada.org	San Luis Obispo, CA 93408	Monterey, CA 93940
te Honorak I. Th	edobroth@co.sto.ca.us	Prop63DA@co.montercy.ca.us
te Honorable Thomas Hardy	The Reducible Phillip I. Cline	The Honorable Clifford Newell
To County District Attorney	Tolore County District Astorney	Nevada County District Attorney
& N. Edwards Street	221 S Mooney Blvd	201 Commercial Street
dependence, CA 93526	Visalia, CA 95370	Nevada City, CA 95959
voca@invecounty.us	Prop65@log.tulare.ca.us	DA Propisio co nevada ca us
e Honorable Paul E. Zeilerbach	The Honorable Stephan Passalacqua	The Honorable David Hollister
Verside County District Attorney	Summit County District Attorney	Plamas County District Attorney
14 Urange Street	600 Administration Drive	520 Main Street, Room, 404
verside, CA 92501	Source, CA 95403	Quincy, CA 95971
1065@rivenda ore	ibanes asonome-county.org	
Honorable Walter W Wall	The Honorable Kimberly Lewis	davidaollister@countyofphmas.com
Fipesa County District Attorney	Manual County Told Court Told Court Told Court Told County Told Co	The Honorable Morgan Briggs Gire
A Box 73()	Microsol County District Attorney	Placer County District Attorney
riposa, CA 95338	550 West Main Street	10810 Justice Center Drive
da@maripasacosacy.org	Morcod, CA 95349	Roseville, CA 95678
ra V. Frimann, City Attorney	Propositional years and com	prop65@placer.ca.gov
E East Cl. City Attorney	Lisa A. Smitteamp, District Attorney	
E. Santa Clara Street, 16th Floor	2100 Telare Street	1
1 JOSE, CA 96113	Fresno, CA 93721	1
position65notices@sanjeseca.gov	consumernsofection Officenocounty cu. gr	

ELECTRONIC UPLOAD SERVICE LIST

Office of the California Attorney General
Proposition 65 Enforcement Reporting
ATTN: Prop 65 Coordinator
P.O. Box 70550
Oakland, CA 94612-0550
https://oag.ca.gov/prop65/add-60-day-notice

SERVICE LIST

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Salinas CA 39302 Selinas CA 39302 Selinas CD 39302 Selinas CD 39302 The Honorable Stephen Carton Maps County District Attorney 127 First Straet, Suite C Maps, CA 93503 New CA 39588 New CA 39589 New CA	220 Fulara Street #1000	P.O. Box 1131		
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APPENDIX A

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY

The following summary has been prepared by the California Office of Environmental Health Hazard Assessment (OEHHA), the lead agency for the implementation of the Safe Drinking Water and Toxic Enforcement Act of 1986 (commonly known as "Proposition 65"). A copy of this summary must be included as an attachment to any notice of violation served upon an alleged violator of the Act. The summary provides basic information about the provisions of the law, and is intended to serve only as a convenient source of general information. It is not intended to provide authoritative guidance on the meaning or application of the law. The reader is directed to the statute and OEHHA implementing regulations (see citations below) for further information.

FOR INFORMATION CONCERNING THE BASIS FOR THE ALLEGATIONS IN THE NOTICE RELATED TO YOUR BUSINESS, CONTACT THE PERSON IDENTIFIED ON THE NOTICE.

The text of Proposition 65 (Health and Safety Code Sections 25249.5 through 25249.13) is available online at: http://oehha.ca.gov/prop65/law/P65law72003.html. Regulations that provide more specific guidance on compliance, and that specify procedures to be followed by the State in carrying out certain aspects of the law, are found in Title 27 of the California Code of Regulations, sections 25102 through 27001.1 These implementing regulations are available online at: http://oehha.ca.gov/prop65/law/P65Regs.html.

WHAT DOES PROPOSITION 65 REQUIRE?

The "Proposition 65 List." Under Proposition 65, the lead agency (OEHHA) publishes a list of chemicals that are known to the State of California to cause cancer and/or reproductive toxicity. Chemicals are placed on the Proposition 65 list if they are known to cause cancer and/or birth defects or other reproductive harm, such as damage to

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 employe 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

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 B

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): SPECIAL COMPLIANCE PROCEDURE

This Appendix B contains the notice of special compliance procedure and proof of compliance form 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"). Under the Act, a private party may not file an enforcement action based on certain exposures if the alleged violator meets specific conditions. These exposures are:

- 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.

A private party may not file an action against the alleged violator for these exposures, or recover in a settlement any payment in lieu of penalties any reimbursement for costs and attorney's fees, if the alleged violator has done all of the following within 14 days of being served notice:

- Corrected the alleged violation;
- Agreed to pay a civil penalty of \$500 (subject to change in 2019 and every five years thereafter) to the private party within 30 days; and

Notified the private party serving the notice in writing that the violation has been corrected.

An alleged violator may satisfy these conditions only one time for a violation arising from the same exposure in the same facility or on the same premises. The satisfaction of these conditions does not prevent the Attorney General, a district attorney, a city attorney of a city of greater than 750,000 population, or any full-time city prosecutor with the consent of the district attorney, from filing an enforcement action against an alleged violator.

When a private party sends a notice of alleged violation that alleges one or more of the exposures listed above, the notice must include a notice of special compliance procedure, and a proof of compliance form to be completed by the alleged violator as directed in the notice.

The notice and proof of compliance form is reproduced here:

Date:

Page 1

Name of Noticing Party or attorney for Noticing Party:

Address:

Phone number:

SPECIAL COMPLIANCE PROCEDURE PROOF OF COMPLIANCE

You are receiving this form because the Noticing Party listed above has alleged that you are violating California Health and Safety Code §25249.6 (Prop. 65).

The Noticing Party may not bring any legal proceedings against you for the alleged violation checked below if:

- (1) You have actually taken the corrective steps that you have certified in this form
- (2) The Noticing Party has received this form at the address shown above, accurately completed by you, postmarked within 14 days of your receiving this notice.
- (3) The Noticing Party receives the required \$500 penalty payment from you at the address shown above postmarked within 30 days of your receiving this notice.
- (4) This is the first time you have submitted a Proof of Compliance for a violation arising from the same exposure in the same facility on the same premises.

PART 1: TO BE COMPLETED BY THE NOTICING PARTY OR ATTORNEY FOR THE **NOTICING PARTY**

The alleged violation is for an exposure to: (check one)

Alcoholic beverages that are consumed on the alleged violator's premises to the extent on-site consumption is permitted by law.
A chemical known to the state to cause cancer or reproductive toxicity in a food or beverage prepared and sold on the alleged violator's premises for immediate consumption on or off premises to the extent: (1) the chemical was not intentionally added; and (2) the chemical 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.
Environmental tobacco smoke caused by entry of persons (other than employees on premises owned or operated by the alleged violator where smoking is permitted a any location on the premises.
Chemicals known to the State to cause cancer or reproductive toxicity in engine exhaust, to the extent the exposure occurs inside a facility owned or operated by the alleged violator and primarily intended for parking noncommercial vehicles.
IMPORTANT NOTES

(1) You have no potential liability under California Health and Safety Code §25249.6 if your business has nine (9) or fewer employees.

(2) Using this form will NOT prevent the Attorney General, a district attorney, a city attorney, or a prosecutor in whose jurisdiction the violation is alleged to have occurred from filing an action over the same alleged violations, and that in any such action, the amount of civil penalty shall be reduced to reflect any payment made at this time.

Date:

Page 2

Name of Noticing Party or attorney for Noticing Party:

Address:

Phone number:

PART 2: TO BE COMPLETED BY THE ALLEGED VIOLATOR OR AUTHORIZED REPRESENTATIVE

Certification of Compliance

Accurate completion of this form will demonstrate that you are now in compliance with California Health and Safety Code §25249.6 for the alleged violation listed above. You must complete and submit the form below to the Noticing Party at the address shown above, postmarked within 14 days of you receiving this notice.

I hereby agree to pay, within 30 days of completion of this notice, a civil penalty of \$500 to the Noticing Party only and certify that I have complied with Health and Safety Code §25249.6 by (check only one of the following):

[] Posting a warning or warnings about the alleged exposure and attaching a copy of that warning and a photograph accurplacement on my premises; [] Posting the warning or warnings demanded in writing by the attaching a copy of that warning and a photograph accurately my premises; OR [] Eliminating the alleged exposure, and attaching a statement how the alleged exposure has been eliminated.	ately showing its ne Noticing Party, and y showing its placement on
My statements on this form, and on any attachments to it, are correct to the best of my knowledge and belief and are made carefully read the instructions to complete this form. I understatement on this form, I may be subject to additional penalt Water and Toxic Enforcement Act of 1986 (Proposition 65).	e in good faith. I have stand that if I make a false
Signature of alleged violator or authorized representative	Date
Name and title of signatory	

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.