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13
14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
15 **COUNTY OF ALAMEDA**

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

19 **Plaintiff,**

20 **vs.**

21 **HALFDAY TONICS INC., individually and**
22 **dba HALFDAY TONICS LLC; and DOES**
23 **1-100**

24 **Defendants.**

CASE NO. 24CV095566

**[PROPOSED] STIPULATED
CONSENT JUDGMENT**

Health & Safety Code § 25249.5 *et seq.*

Action Filed: October 14, 2024

Trial Date: None set

25 **1. INTRODUCTION**

26 **1.1** On October 14, 2024, Plaintiff Environmental Research Center, Inc. (“ERC”), a
27 non-profit corporation, as a private enforcer and in the public interest, initiated this action by
28 filing a Complaint for Injunctive and Declaratory Relief and Civil Penalties pursuant to the

1 provisions of California Health and Safety Code section 25249.5 *et seq.* (“Proposition 65”),
2 against Halfday Tonics Inc., individually and dba Halfday Tonics LLC (collectively
3 “Halfday”) and Does 1-100. Subsequently, on November 18, 2024, a First Amended
4 Complaint was filed (the operative Complaint hereinafter referred to as the “Complaint”). In
5 this action, ERC alleges that certain products manufactured, distributed, or sold by Halfday
6 contain lead and/or mercury and/or perfluorooctanoic acid (PFOA), chemicals listed under
7 Proposition 65 as carcinogens and/or reproductive toxins, and that consuming such products
8 can expose California consumers to these chemicals at a level requiring a Proposition 65
9 warning. These products (referred to hereinafter individually as a “Covered Product” or
10 collectively as the “Covered Products”) are: (1) Halfday Raspberry Iced Tea (allegedly
11 containing lead, mercury, PFOA); (2) Halfday Cranberry Iced Tea (allegedly containing lead,
12 mercury); (3) Halfday New Era Iced Tea Prebiotics Lemon Tea (allegedly containing PFOA);
13 (4) Halfday New Era Iced Tea Prebiotics Green Tea with Honey & Ginseng (allegedly
14 containing PFOA); and (5) Halfday New Era Iced Tea Prebiotics Peach Tea (allegedly
15 containing PFOA). All Covered Products, with the exception of Halfday Cranberry Iced Tea,
16 may also be referred to as “PFOA Covered Product(s).” The Covered Products Halfday
17 Raspberry Iced Tea and Halfday Cranberry Iced Tea may also be referred to as “Lead Covered
18 Product(s)” and/or “Mercury Covered Product(s).”

19 **1.2** ERC and Halfday may also hereinafter be referred to individually as a “Party”
20 or collectively as the “Parties.”

21 **1.3** ERC is a 501 (c)(3) California non-profit corporation dedicated to, among other
22 causes, helping safeguard the public from health hazards by reducing the use and misuse of
23 hazardous and toxic chemicals, facilitating a safe environment for consumers and employees,
24 and encouraging corporate responsibility.

25 **1.4** For purposes of this Consent Judgment only, the Parties stipulate that Halfday is a
26 business entity that has employed ten or more persons at all times relevant to this action, qualifies
27 as a “person in the course of doing business” within the meaning of Proposition 65, and
28 manufactures, distributes, and/or sells the Covered Products in California.

1 **1.5** The Complaint is based on allegations contained in ERC’s Notices of Violation
2 dated August 2, 2024 and September 6, 2024 that were served on the California Attorney
3 General, other public enforcers, and Halfday (the “First and Second Notices”). True and correct
4 copies of the First and Second Notices are attached hereto as **Exhibits A and B** and each is
5 incorporated herein by reference. More than 60 days have passed since the First and Second
6 Notices were served on Halfday, the Attorney General, and other relevant public enforcers. To
7 the best of the Parties’ knowledge, no public enforcer has diligently prosecuted the allegations
8 set forth in the First and Second Notices.

9 **1.6** On August 1, 2025, ERC served a Third Notice of Violation on the California
10 Attorney General, other public enforcers, and Halfday (the “Third Notice”). A true and correct
11 copy of the Third Notice is attached hereto as **Exhibit C** and incorporated herein by reference.
12 The Parties stipulate that the Complaint be deemed amended as of October 1, 2025 to include the
13 products set forth in ERC’s Third Notice. This Consent Judgment shall apply to all Covered
14 Products set forth in Paragraph 1.1, effective 60 days after August 1, 2025, provided no public
15 enforcer is diligently pursuing the allegations set forth in ERC’s Third Notice. On October 1,
16 2025 more than 60 days will have passed since ERC’s Third Notice was served on the Attorney
17 General, public enforcers, and Halfday. The First and Second Notices and the Third Notice are
18 collectively referred to as the “Notices.”

19 **1.7** ERC’s Notices and Complaint allege that consumption of the Covered Products
20 by California consumers can expose them to lead and/or mercury and/or PFOA without those
21 consumers first receiving a Proposition 65 warning pursuant to California Health and Safety
22 Code section 25249.6. Halfday denies all material allegations contained in the Notices and
23 Complaint.

24 **1.8** The Parties have entered into this Consent Judgment in order to settle,
25 compromise, and resolve disputed claims and thus avoid prolonged and costly litigation. The
26 Parties enter into this Consent Judgment as a full and final settlement of all claims that were
27 raised or that could have been raised in the Notices and Complaint. Halfday denies the
28 material, factual, and legal allegations contained in the Notices and Complaint, and maintains

1 that all of the products it sells, manufactures, and/or distributes for sale in California, including
2 the Covered Products, are in compliance with all laws and are completely safe for their
3 intended use. Nothing in this Consent Judgment shall be construed as an admission against
4 interest by Halfday of any fact, finding, issue of law, or violation of law; nor shall compliance
5 with this Consent Judgment constitute or be construed as an admission by Halfday of any fact,
6 finding, conclusion, issue of law or violation of law, such being specifically denied by Halfday.
7 Unless otherwise stipulated to or agreed upon, nothing in this Consent Judgment shall
8 prejudice, waive or impair any right, remedy, argument or defense Halfday may have in this or
9 any other future legal proceeding. This Consent Judgment is the product of negotiation and
10 compromise and is accepted by Halfday solely for purposes of settling, compromising, and
11 resolving issues disputed in the Notices and Complaint. Notwithstanding the allegations in the
12 Notices and Complaint, Halfday maintains that it has not knowingly manufactured, sold,
13 distributed or caused the sale of Covered Products in California in violation of Proposition 65.
14 However, this Section 1.8 shall not diminish or otherwise affect Halfday's obligations,
15 responsibilities and duties under this Consent Judgment.

16 **1.9** Nothing in this Consent Judgment nor compliance with its terms shall constitute
17 or be construed as an admission by any of the Parties or by any of their respective officers,
18 directors, shareholders, employees, agents, parent companies, subsidiaries, divisions,
19 franchisees, licensees, licensors, customers, suppliers, distributors, wholesalers, or retailers of
20 any fact, issue of law, or violation of law, except that compliance with the terms of this
21 Consent Judgment is deemed compliance with Proposition 65 for any alleged lead, mercury,
22 and/or PFOA in the Covered Products.

23 **1.10** Except as expressly set forth herein, nothing in this Consent Judgment shall
24 prejudice, waive, or impair any right, remedy, argument, or defense the Parties may have in
25 any current or future legal proceeding unrelated to these proceedings.

26 **1.11** The "Effective Date" of this Consent Judgment is the date on which it is entered
27 as a Judgment by this Court. The "Compliance Date," as the term is used in this Consent
28 Judgment, is the date that is 45 days after the Effective Date.

1 **2. JURISDICTION AND VENUE**

2 For purposes of this Consent Judgment only and any further court action that may be
3 necessary to enforce the terms of this Consent Judgment, the Parties stipulate that this Court has
4 subject matter jurisdiction over the allegations of violations contained in the Complaint and
5 personal jurisdiction over Halfday as to the acts alleged in the Complaint, that venue is proper in
6 Alameda County, and that this Court has jurisdiction to enter this Consent Judgment as a full and
7 final resolution of all claims up through and including the Compliance Date that were or could
8 have been asserted in this action based on the facts alleged in the Notices and Complaint.

9 **3. INJUNCTIVE RELIEF, REFORMULATION, TESTING AND WARNINGS**

10 **3.1** Beginning on the Compliance Date, Halfday shall be permanently enjoined
11 from manufacturing for sale in the State of California, “Distributing into the State of
12 California,” or directly selling in the State of California, any Covered Products that expose a
13 California consumer to a “Daily Lead Exposure Level” of more than 0.5 micrograms of lead
14 per day in the Lead Covered Products and/or a “Daily Mercury Exposure Level” of more than
15 0.3 micrograms of mercury per day in the Mercury Covered Products and/or any PFOA
16 Covered Product that exposes a person to a quantifiable level of PFOA that can be reliably
17 achieved using industry standard methods for testing in the PFOA Covered Products,
18 consistent with the methodology set forth in section 3.4.3, unless the Covered Product
19 complies with the warning requirements of Section 3.2.

20 **3.1.1** As used in this Consent Judgment, the term “Distributing into the State
21 of California” shall mean to directly ship a Covered Product into California for sale in
22 California or to sell a Covered Product to a distributor that Halfday knows or has reason to
23 know will sell the Covered Product in California.

24 **3.1.2** For purposes of this Consent Judgment, the “Daily Lead Exposure
25 Level” shall be measured in micrograms, and shall be calculated using the following formula:
26 micrograms of lead per gram of product, multiplied by grams of product per serving of the
27 product (using the largest serving size appearing on the product label), multiplied by servings
28 of the product per day (using the largest number of recommended daily servings appearing on

1 the label), which equals micrograms of lead exposure per day. If the label contains no
2 recommended daily servings, then the number of recommended daily servings shall be one.

3 **3.1.3** For purposes of this Consent Judgment, the “Daily Mercury Exposure
4 Level” shall be measured in micrograms, and shall be calculated using the following formula:
5 micrograms of mercury per gram of product, multiplied by grams of product per serving of the
6 product (using the largest serving size appearing on the product label), multiplied by servings
7 of the product per day (using the largest number of recommended daily servings appearing on
8 the label), which equals micrograms of mercury exposure per day. If the label contains no
9 recommended daily servings, then the number of recommended daily servings shall be one.

10 **3.2 Clear and Reasonable Warnings**

11 If Halfday is required to provide a warning pursuant to Section 3.1, one of the following
12 warnings must be utilized (the “Warning”):

13 **OPTION 1:**

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

17 Or

18 **OPTION 2:**

19 **WARNING:** Can expose you to [lead] [and] [mercury] [and] [perfluorooctanoic acid],
20 a [carcinogen and] reproductive toxicant. See www.P65Warnings.ca.gov/food.

21
22 The Warning shall begin either with the word “**WARNING,**” as indicated above, or the
23 words “**CA WARNING**” or “**CALIFORNIA WARNING,**” in all capital letters and bold print.
24 Halfday shall use the phrase “cancer and” in the Option 1 Warning or the phrase “carcinogen and”
25 in the Option 2 Warning (each phrase referred to individually as a “Cancer Phrase”) if Halfday
26 has reason to believe that, for the Lead Covered Products, the “Daily Lead Exposure Level” is
27 greater than 15 micrograms of lead and/or, for the PFOA Covered Products, if the PFOA Covered
28 Product contains a quantifiable level of PFOA that can be reliably achieved using industry

1 standard methods for testing pursuant to the quality control methodology described in Section 3.4,
2 or, for any of the Covered Products, if Halfday has reason to believe that another Proposition 65
3 listed chemical is present which may require a cancer warning. As identified in the brackets, the
4 warning shall appropriately reflect whether there is lead (only for the Lead Covered Products),
5 PFOA (only for the PFOA Covered Products), and/or mercury (only for the Mercury Covered
6 Products) in each of the Covered Products, but if there is a chemical present at a level that requires
7 a cancer warning, the chemical requiring use of the Cance Phrase in the Warning shall always be
8 identified.

9 The Warning shall be securely affixed to or printed upon the label of each Covered
10 Product and must be set off from other surrounding information and enclosed in a box. In
11 addition, for any Covered Product Halfday offers for sale over the internet, the Warning shall
12 appear by providing the Warning on the checkout page when a California delivery address is
13 indicated for the purchase of any Covered Product, or by otherwise prominently displaying the
14 Warning to the purchaser on the Covered Product’s primary product display page prior to
15 completing the purchase. If the Warning is provided on the checkout page, an asterisk or other
16 identifying method must be utilized to identify which Covered Product(s) on the checkout page
17 are subject to the Warning. In addition, for any Covered Product sold over the internet, the
18 Warning may be provided through a clearly marked hyperlink using the word
19 “[**CALIFORNIA or CA**] **WARNING**” in all capital and bold letters on the Covered Product’s
20 primary display page so long as the hyperlink links to a page prominently displaying the
21 Warning without content that detracts from the Warning. A Warning is not prominently
22 displayed if the purchaser has to search for it in the general content of the website.

23 For internet warnings only, if a Covered Product is being sold online by a third-party
24 reseller or downstream reseller (collectively referred to as “Third-Party Seller(s)”) to
25 California consumers, and the Third-Party Seller is subject to Proposition 65 and known to and
26 authorized to sell such Covered Product by Halfday, and Halfday cannot itself post the warning
27 on the authorized Third-Party Seller’s website (for example, because Halfday lacks control
28 over such authorized Third-Party Seller’s website), then Halfday shall notify the authorized

1 Third-Party Seller and/or its authorized agent, in writing, of the Third Party Seller’s duty to
2 provide an internet warning for sales of the Covered Product to California consumers. Halfday
3 shall comply with this obligation to notify Third-Party Sellers by complying with 27 CCR §
4 25600.2 (2025) and providing to any such Third-Party Seller (or its authorized agent) the
5 warning language required by this Consent Judgment for products sold on the internet to
6 California consumers. The written notice required by this Section shall instruct the Third-Party
7 Seller that the warning language required by this Consent Judgment, for Covered Products sold
8 on the internet to California consumers, must be displayed on the Third-Party Seller’s website
9 in the manner required in this Consent Judgment, with such conspicuousness, as compared
10 with other words, statements or designs, as to render the Warning likely to be seen, read, and
11 understood by an ordinary individual prior to completing the purchase.

12 The Warning shall be at least the same size as the largest of any other health or safety
13 warnings also appearing on the website or on the label and in no event less than six (6) point type.
14 No statements intended to or likely to have the effect of diminishing the impact of the Warning on
15 the average lay person shall accompany the Warning. Further no statements may accompany the
16 Warning that state or imply that the source of the listed chemical has an impact on or results in a
17 less harmful effect of the listed chemical.

18 Halfday must display the above Warning with such conspicuousness, as compared with
19 other words, statements or designs on the label, or on its website, if applicable, to render the
20 Warning reasonably likely to be read and understood by an ordinary individual under customary
21 conditions of purchase or use of the product. Where a sign or label used to provide the Warning
22 for a Covered Product includes consumer information about the Covered Product in a language
23 other than English, the Warning must also be provided in that language in addition to English.
24 For purposes of this paragraph, the term “consumer information” includes warnings, directions for
25 use, ingredient lists, and nutritional information but does not include the brand name, product
26 name, company name, location of manufacture, or product advertising.

27 For purposes of this Consent Judgment, the term “label” means a display of written,
28 printed or graphic material that is printed on or affixed to a Covered Product or its immediate

1 container or wrapper.

2 There shall be no obligation for Halfday to provide a Warning for Covered Products that
3 are (1) manufactured before the Compliance Date and (2) no longer in the possession of or under
4 the control of Halfday on the Compliance Date, and the Section 8 release applies to all such
5 Covered Products. The Parties agree that Halfday shall be deemed to be in compliance with the
6 clear and reasonable warning requirements of this Consent Judgment by either adhering to this
7 Section of the Consent Judgment (along with any other applicable, related, or listed Sections as
8 referenced in this Section) or by complying with warning regulations adopted by the State of
9 California’s Office of Environmental Health Hazard Assessment (“OEHHA”) and made
10 applicable to the Covered Products and/or the listed chemicals at issue pursuant to entry of a
11 modified Consent Judgment in accordance with Section 5. In the event that the OEHHA
12 promulgates one or more regulations requiring or permitting Proposition 65 warning text and/or
13 methods of transmission applicable to the Covered Products and/or the listed chemicals at issue,
14 which are different from those set forth above, Halfday shall be entitled to seek a modification of
15 this Consent Judgment pursuant to Section 5, and the approval of such modification shall not be
16 unreasonably opposed or withheld by ERC.

17 **3.3 Conforming Covered Products**

18 A Conforming Lead Covered Product is a Lead Covered Product for which the “Daily Lead
19 Exposure Level” is no greater than 0.5 micrograms of lead per day as determined by the
20 exposure methodology set forth in Section 3.1.2 and the quality control methodology described
21 in Section 3.4, and that is not known by Halfday to contain other chemicals that violate
22 Proposition 65’s safe harbor thresholds. A Conforming Mercury Covered Product is a Mercury
23 Covered Product for which the “Daily Mercury Exposure Level” is no greater than 0.3
24 micrograms of mercury per day as determined by the exposure methodology set forth in Section
25 3.1.3 and the quality control methodology described in Section 3.4, and that is not known by
26 Halfday to contain other chemicals that violate Proposition 65’s safe harbor thresholds. A
27 Conforming PFOA Covered Product is a PFOA Covered Product for which there is no
28 quantifiable level of PFOA that can be reliably achieved using industry standard methods for

1 testing as determined by the quality control methodology described in Section 3.4, and that is not
2 known by Halfday to contain other chemicals that violate Proposition 65's safe harbor
3 thresholds.

4 **3.4 Testing and Quality Control Methodology**

5 **3.4.1** Beginning within one year of the Compliance Date, Halfday shall
6 arrange for lead, mercury, and PFOA testing of the Covered Products at least once a year for a
7 minimum of three consecutive years by arranging for testing of one (1) randomly selected
8 sample of each of the Covered Products, in the form intended for sale to the end-user, which
9 Halfday intends to sell or is manufacturing for sale in California, directly selling to a consumer
10 in California or "Distributing into the State of California." If tests conducted pursuant to this
11 Section demonstrate that no Warning is required for a Covered Product during each of three
12 consecutive years, then the testing requirements of this Section will no longer be required as to
13 that Covered Product. However, if during or after the three-year testing period, Halfday
14 changes ingredient suppliers for any of the Covered Products and/or reformulates any of the
15 Covered Products such that there is a material change in formula or the supply chain of the
16 Covered Products that is reasonably likely to affect the levels of lead, mercury, PFOA in the
17 Covered Products, Halfday shall test those Covered Products annually for at least two (2)
18 consecutive years after such change is made.

19 **3.4.2** For purposes of measuring the "Daily Lead Exposure Level," and/or the
20 "Daily Mercury Exposure Level," and the quantifiable level of PFOA, the lead, mercury, or
21 PFOA detection result, as applicable, of the randomly selected sample of each of the Covered
22 Products will be controlling.

23 **3.4.3** All testing for lead and mercury pursuant to this Consent Judgment shall
24 be performed using a laboratory method that complies with the performance and quality
25 control factors appropriate for the method used, including limit of detection and limit of
26 quantification, sensitivity, accuracy and precision that meets the following criteria: Inductively
27 Coupled Plasma-Mass Spectrometry ("ICP-MS") achieving a limit of quantification of less
28 than or equal to 0.005 mg/kg. Testing for PFOA in the PFOA Covered Products shall be

1 conducted by Symbio Laboratories, or another lab that can achieve at least as sensitive of
2 testing as Symbio Laboratories, using the lowest reporting level that can be reliably quantified
3 using available technologies for PFOA.

4 **3.4.4** All testing pursuant to this Consent Judgment shall be performed by an
5 independent third party laboratory certified by the California Environmental Laboratory
6 Accreditation Program or an independent third-party laboratory that is registered with the
7 United States Food & Drug Administration, or an independent third-party laboratory otherwise
8 accredited to perform such testing and agreed upon in writing by the Parties. Halfday may rely
9 on testing it obtains from such laboratories as its evidence of compliance with this Consent
10 Judgment.

11 **3.4.5** Nothing in this Consent Judgment shall limit Halfday's ability to
12 conduct, or require that others conduct, additional testing of the Covered Products, including
13 the raw materials used in their manufacture.

14 **3.4.6** Within thirty (30) days of ERC's written request, Halfday shall deliver
15 lab reports for compliance testing obtained pursuant to Section 3.4 to ERC. Halfday shall retain
16 all test results and documentation for a period of three years from the date of each test. ERC
17 will treat all such testing produced by Halfday hereunder as confidential pursuant to a mutually
18 agreeable confidentiality agreement.

19 **3.4.7** The testing and reporting requirements of Section 3.4 do not apply to
20 any Covered Product for which Halfday is providing a Warning, continuously and without
21 interruption from the Compliance Date, pursuant to Section 3.2 of this Consent Judgment. In
22 the event a Warning is provided after the Compliance Date but Halfday thereafter ceases to
23 provide the Warning specified in Section 3.2 for any Covered Product, Halfday may only do so
24 after it has tested such Covered Product, and Halfday shall be required to comply with the
25 testing and reporting requirements of Section 3.4 of this Consent Judgment immediately (or as
26 soon as practicable) after the date the Warning ceases to be provided, unless Halfday can show
27 to the satisfaction of ERC that the cessation in providing the Warning was a temporary error
28 that was resolved when discovered.

1 **3.5** Nothing in Section 3 of this Consent Judgment shall prevent or preclude ERC
2 from obtaining and relying upon its own testing for purposes of enforcement, so long as such
3 testing meets the requirements of Sections 3.4.3 and 3.4.4. Halfday likewise may rely on its own
4 testing to respond to an enforcement notice, so long as such testing meets the requirements of
5 Sections 3.4.3 and 3.4.4. Nothing in Section 3.4 of this Consent Judgment is intended by either
6 Party to set a precedent for the level of lead, mercury, PFOA, or other chemicals that is
7 permissible in consumer products, other than the Covered Products, under Proposition 65

8 **4. SETTLEMENT PAYMENT**

9 **4.1** In full satisfaction of all potential civil penalties, attorneys’ fees, expenses, and
10 monetary relief of any kind, Halfday shall make a total settlement payment of \$65,000.00
11 (“Total Settlement Amount”) to ERC within ten (10) days of the Effective Date (“Due Date”).
12 Halfday shall make this payment by wire transfer to ERC’s account, for which ERC will give
13 Halfday the necessary account information either before or after the Effective Date. Halfday
14 agrees to provide a completed IRS 1099 for its payments to ERC, and ERC agrees to provide
15 its IRS W-9 form to Halfday. ERC recognizes that without ERC’s W-9 Halfday cannot pay
16 the Total Settlement Amount required herein, and Halfday acknowledges receipt of ERC’s W-
17 9, which was provided to Halfday, through its attorney, prior to execution of this document.
18 ERC shall have the sole and exclusive responsibility for ensuring that the Total Settlement
19 Amount is apportioned as follows:

20 **4.2** \$3,000.00 shall be considered a civil penalty pursuant to California Health and
21 Safety Code section 25249.7(b)(1). ERC shall remit 75% (\$2,250.00) of the civil penalty to the
22 Office of Environmental Health Hazard Assessment for deposit in the Safe Drinking Water and
23 Toxic Enforcement Fund in accordance with California Health and Safety Code section
24 25249.12(c). ERC will retain the remaining 25% (\$750.00) of the civil penalty.

25 **4.3** \$6,501.23 shall be distributed to ERC as reimbursement to ERC for reasonable
26 costs incurred in bringing this action.

27 **4.4** \$17,730.00 of the Total Settlement Amount shall be distributed to Aqua Terra
28 Aeris Law Group as reimbursement of ERC’s attorney fees, while \$37,768.77 shall be

1 distributed to ERC for its in-house legal fees. Except as explicitly provided herein, each Party
2 shall bear its own fees and costs.

3 **4.5** In the event that Halfday fails to remit the Total Settlement Amount owed under
4 Section 4 of this Consent Judgment on or before the Due Date, Halfday shall be deemed to be
5 in material breach of its obligations under this Consent Judgment. ERC shall provide written
6 notice of the delinquency to Halfday via electronic mail. If Halfday fails to deliver the Total
7 Settlement Amount within five (5) business days from the written notice, the Total Settlement
8 Amount shall accrue interest at the statutory judgment interest rate provided in the California
9 Code of Civil Procedure section 685.010. Additionally, Halfday agrees to pay ERC's
10 reasonable attorneys' fees and costs for any efforts to collect the payment due under this
11 Consent Judgment.

12 **5. MODIFICATION OF CONSENT JUDGMENT**

13 **5.1** This Consent Judgment may be modified or terminated only as to injunctive
14 terms: (i) by written stipulation of the Parties and upon entry by the Court of a modified
15 consent judgment; or (ii) by motion of either Party, following the meet and confer process in
16 Section 5.2, based upon an agreement to modify the Consent Judgment and upon entry by the
17 Court of a modified consent judgment..

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

1 writing to different deadlines for the meet-and-confer period.

2 **5.3** In the event that Halfday initiates or otherwise requests a modification under
3 Section 5.1, and the meet and confer process leads to a joint motion or joint stipulation for a
4 modification of the Consent Judgment, Halfday shall reimburse ERC its costs and reasonable
5 attorney’s fees for the time spent in the meet-and-confer process and filing and arguing the
6 motion.

7 **6. RETENTION OF JURISDICTION, ENFORCEMENT OF CONSENT**
8 **JUDGMENT**

9 **6.1** This Court shall retain jurisdiction of this matter to enforce, modify, or
10 terminate this Consent Judgment.

11 **6.2** If ERC alleges that any Covered Product fails to qualify as a Conforming
12 Covered Product (for which ERC alleges that no Warning has been provided), then ERC shall
13 inform Halfday in a reasonably prompt manner and provide all of its supporting test results on
14 the product, including all testing laboratory Quality Control and/or Quality Assurance
15 documentation if requested in writing by Halfday, as well as information sufficient to permit
16 Halfday to identify the Covered Products at issue and product photographs sufficient to identify
17 the product’s manufacturing lot code. Halfday shall, within thirty (30) days following such
18 notice, provide ERC with testing information, from an independent third-party laboratory
19 meeting the requirements of Sections 3.4.3 and 3.4.4, demonstrating Halfday’s compliance
20 with the Consent Judgment. Halfday’s test results pursuant to Section 3.4, and meeting the
21 requirements of Sections 3.4.3 and 3.4.4, showing compliance with this Consent Judgment may
22 be used by Halfday as a defense to any alleged violation of Section 3. The Parties shall first
23 meet and confer in good faith in attempting to resolve the matter prior to ERC taking any
24 further legal action.

25 **7. APPLICATION OF CONSENT JUDGMENT**

26 This Consent Judgment shall be binding upon and benefit the Parties and their respective
27 officers, directors, shareholders, employees, agents, parent companies, subsidiaries, divisions,
28 franchisees, licensees, licensors, customers (excluding private labelers), distributors, wholesalers,

1 retailers, predecessors, successors, and assigns. This Consent Judgment shall have no application
2 to any Covered Product that is distributed or sold exclusively outside of the State of California
3 and that is not used by California consumers.

4 **8. BINDING EFFECT, CLAIMS COVERED AND RELEASED**

5 **8.1** This Consent Judgment is a full, final, and binding resolution between ERC, on
6 behalf of itself and in the public interest, and Halfday and its respective officers, directors,
7 shareholders, employees, agents, parent companies, subsidiaries, divisions, suppliers,
8 franchisees, licensees, licensors, customers (not including private label customers of Halfday),
9 distributors, wholesalers, retailers, and all other upstream and downstream entities in the
10 distribution chain of any Covered Product related to the claims set forth below and covered
11 herein, and the predecessors, successors, and assigns of any of them (collectively, “Released
12 Parties”).

13 **8.2 ERC Release of Halfday**

14 ERC, acting in the public interest, releases the Released Parties from any and all claims
15 for actual or alleged violations of Proposition 65 up to and including the Compliance Date based
16 on actual or alleged exposure to lead from the Lead Covered Products and/or mercury from the
17 Mercury Covered Products and/or PFOA from the PFOA Covered Products as set forth in the
18 Notices and Complaint. In further consideration of the promises and agreements herein
19 contained, and for the payment to be made pursuant to Section 4, ERC, on behalf of itself only,
20 hereby fully releases and discharges the Released Parties from any and all claims, actions, causes
21 of action, in law or in equity, suits, liabilities, demands, obligations, damages, costs, fines,
22 penalties, losses or expenses, including, but not limited to, investigation fees, expert fees and
23 attorneys’ fees of any nature whatsoever, whether known or unknown, fixed or contingent,
24 against Halfday and its past, present and future owners, direct and indirect parent companies,
25 corporate affiliates, subsidiaries, upstream and downstream suppliers, distributors, manufacturers
26 or customers (not including private label customers of Halfday), direct and indirect retailers,
27 clients, and each of their respective officers, directors, attorneys, representatives, shareholders,
28 agents, insurers, employees successors and assigns arising under Proposition 65 related to the

1 alleged failure to warn about exposures to or identification of lead from the Lead Covered
2 Products and/or mercury from the Mercury Covered Products and/or PFOA from the PFOA
3 Covered Products as set forth in the Notices and Complaint up to and including the Compliance
4 Date. However, after the Compliance Date, Third-Party Sellers that do not provide a Warning
5 within a reasonable time, but in no event more than 60 days, after being instructed or notified by
6 Halfday to do so as outlined in Section 3.2, are not released from liability for violations of
7 Proposition 65.

8 **8.3 Halfday Release of ERC**

9 Halfday waives and releases any and all claims, actions, causes of action, in law or in
10 equity, suits, liabilities, demands, obligations, damages, costs, fines, penalties, losses or
11 expenses, including, but not limited to, investigation fees, expert fees, and attorneys' fees of
12 any nature whatsoever, whether known or unknown, fixed or contingent it may have against
13 ERC or its officers, directors, employees, agents, attorneys or representatives, including its
14 past, present and future owners, direct and indirect parent companies, corporate affiliates,
15 subsidiaries, shareholders, insurers, successors, and assigns, for all actions or statements made
16 or undertaken in the course of seeking or opposing enforcement of Proposition 65 in
17 connection with the Notices and Complaint.

18 **8.4** It is possible that other claims not known to the Parties, arising out of the facts
19 alleged in the Notices and Complaint, and/or relating to the Covered Products, will develop or
20 be discovered. ERC on behalf of itself only, and Halfday on behalf of itself only, acknowledge
21 that this Consent Judgment is expressly intended to cover and include all such claims up
22 through and including the Compliance Date, including all rights of action therefore. ERC and
23 Halfday acknowledge that the claims released in Section 8 may include unknown claims and
24 nevertheless waive California Civil Code section 1542 as to any such unknown claims.

25 California Civil Code section 1542 reads as follows:

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

1 **DEBTOR OR RELEASED PARTY.**

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

5 **8.5** Compliance with the terms of this Consent Judgment shall be deemed to
6 constitute compliance with Proposition 65 by any of the Released Parties regarding alleged
7 exposures to lead from the Lead Covered Products and/or mercury from the Mercury Covered
8 Products and/or PFOA from the PFOA in the PFOA Covered Products as set forth in the
9 Notices and Complaint. However, after the Compliance Date, Third-Party Sellers that do not
10 provide a Warning within a reasonable time, but in no event more than 60 days, after being
11 instructed or notified by Halfday to do so as outlined in Section 3.2, are not released from
12 liability for violations of Proposition 65.

13 **8.6** Nothing in this Consent Judgment is intended to apply to any occupational or
14 environmental exposures arising under Proposition 65, nor shall it apply to any of Halfday’s
15 products other than the Covered Products. Furthermore, nothing in Section 8 shall affect or
16 limit any Party’s right to seek to enforce the terms of this Consent Judgment consistent with
17 the terms set forth herein.

18 **9. SEVERABILITY OF UNENFORCEABLE PROVISIONS**

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

22 **10. GOVERNING LAW**

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

25 **11. PROVISION OF NOTICE**

26 All notices required to be given to either Party to this Consent Judgment by the other shall
27 be in writing and sent to the following agents listed via (a) first-class, registered, certified return
28 receipt requested, (b) United States Postal Service Priority Mail, (c) by overnight courier, or (d)

1 via electronic mail (when required) at the addresses set forth below. Either ERC or Halfday may
2 specify in writing to the other Party a change of address to which all notices and other
3 communications shall be sent.

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

5 Chris Heptinstall, Executive Director, Environmental Research Center
6 3111 Camino Del Rio North, Suite 400
7 San Diego, CA 92108
8 Ph: (619) 500-3090
9 Email: chris.heptinstall@erc501c3.org

10 With a copy to:

11 Matthew C. Maclear, Esq.
12 Anthony M. Barnes, Esq.
13 Aqua Terra Aeris Law Group
14 4030 Martin Luther King Jr. Way
15 Oakland, CA 94609
16 Ph: (415) 568-5200
17 Email: mcm@atalawgroup.com
18 amb@atalawgroup.com

19 **FOR HALFDAY TONICS INC., individually and dba HALFDAY TONICS LLC:**

20 Mike Lombardo or Current CEO
21 Halfday Tonics Inc.
22 20 Cedar Springs Drive
23 Laurel Springs, NJ 08021
24 Email: mike@drinkhalfday.com

25 With a copy to:

26 James Robert Maxwell, Esq.
27 Rogers Joseph O'Donnell
28 311 California Street, 10th Floor
San Francisco, CA 94104
Ph: (415) 956-2828
Email: jmaxwell@rjo.com

12. COURT APPROVAL

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

1 **12.2** If the California Attorney General objects to any term in this Consent Judgment,
2 the Parties shall use their best efforts to resolve the concern in a timely manner, and if possible
3 prior to the hearing on the motion.

4 **12.3** If this Consent Judgment is not approved by the Court, it shall be void and have
5 no force or effect.

6 **13. EXECUTION AND COUNTERPARTS**

7 This Consent Judgment may be executed in counterparts, which taken together shall be
8 deemed to constitute one document. A facsimile or .pdf signature shall be construed to be as valid
9 as the original signature.

10 **14. DRAFTING**

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

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

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

25 **16. ENFORCEMENT**

26 Consistent with the terms of this Consent Judgment, including Section 6.2, ERC may,
27 by motion or order to show cause before the Superior Court of Alameda County, enforce the
28 terms and conditions contained in this Consent Judgment. In any action brought by ERC to

1 enforce this Consent Judgment, ERC may seek whatever fines, costs, penalties, or remedies as
2 are provided by law for failure to comply with the Consent Judgment.

3 **17. ENTIRE AGREEMENT, AUTHORIZATION**

4 **17.1** This Consent Judgment contains the sole and entire agreement and
5 understanding of the Parties with respect to the entire subject matter herein, including any and
6 all prior discussions, negotiations, commitments, and understandings related thereto. No
7 representations, oral or otherwise, express or implied, other than those contained herein have
8 been made by any Party. No other agreements, oral or otherwise, unless specifically referred to
9 herein, shall be deemed to exist or to bind any Party.

10 **17.2** Each signatory to this Consent Judgment certifies that he or she is fully
11 authorized by the Party he or she represents to stipulate to this Consent Judgment and legally
12 bind that Party.

13 **18. REQUEST FOR FINDINGS, APPROVAL OF SETTLEMENT AND ENTRY OF**
14 **CONSENT JUDGMENT**

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

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

21 (2) Make the findings pursuant to California Health and Safety Code section
22 25249.7(f)(4), approve the Settlement, and approve this Consent Judgment.

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

25 ///

26 ///

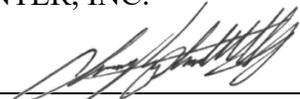
27 ///

28 ///

1 **IT IS SO STIPULATED:**

2
3 Dated: February 25, 2026

ENVIRONMENTAL RESEARCH
CENTER, INC.

4
5 By: 
6 Chris Heptinstall, Executive Director

7
8 Dated: February 20th, 2026

HALFDAY TONICS INC., individually
and dba HALFDAY TONICS LLC

9
10 
11 By: Michael Lombardo
12 Its: Co-CEO

13 **APPROVED AS TO FORM:**

14
15 Dated: February 24, 2026

AQUA TERRA AERIS LAW GROUP

16
17 By: 
18 Matthew C. Maclear
19 Anthony M. Barnes
Attorneys for Plaintiff Environmental
Research Center, Inc.

20
21 Dated: February 23, 2026

ROGERS JOSEPH O'DONNELL

22
23 By: 
24 James Robert Maxwell
25 Attorney for Defendant Halfday Tonics
26 Inc., individually and dba Halfday Tonics
27 LLC
28

1 **[PROPOSED] ORDER AND JUDGMENT**

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

4 IT IS SO ORDERED, ADJUDGED AND DECREED.

5
6 Dated: _____, 2026

7 Judge of the Superior Court

EXHIBIT A



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

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

August 2, 2024

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

Dear Alleged Violator and the Appropriate Public Enforcement Agencies:

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

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

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

Alleged Violator. The name of the company covered by this notice that violated Proposition 65 (hereinafter the "Violator") is:

Halfday Tonics Inc., individually and dba Halfday Tonics LLC

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



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

- 1. Halfday Raspberry Iced Tea – Lead, Mercury**
- 2. Halfday Cranberry Iced Tea – Lead, Mercury**

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

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

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

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

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

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



Notice of Violation of California Health & Safety Code §25249.5 *et seq.*
August 2, 2024
Page 3

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

Sincerely,

A handwritten signature in black ink that reads "Matthew Maclear". The signature is written in a cursive style with a large, stylized initial "M".

Matthew Maclear
AQUA TERRA AERIS LAW GROUP

Attachments

- Certificate of Merit
- Certificate of Service
- OEHHA Summary (to Halfday Tonics Inc., individually and dba Halfday Tonics LLC, and its Registered Agents for Service of Process only)
- Additional Supporting Information for Certificate of Merit (to AG only)



Notice of Violation of California Health & Safety Code §25249.5 *et seq.*
August 2, 2024
Page 4

CERTIFICATE OF MERIT

Re: Environmental Research Center, Inc.’s Notice of Proposition 65 Violations by Halfday Tonics Inc., individually and dba Halfday Tonics LLC

I, Matthew Maclear, declare:

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

2. I am an attorney for the noticing party.

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

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

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

A handwritten signature in black ink that reads 'Matthew Maclear'. The signature is written in a cursive style.

Dated: August 2, 2024

Matthew Maclear



Notice of Violation of California Health & Safety Code §25249.5 *et seq.*
August 2, 2024
Page 5

CERTIFICATE OF SERVICE PURSUANT TO 27 CCR § 25903

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

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

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

Current President or CEO
Halfday Tonics Inc., individually and
dba Halfday Tonics LLC
20 Cedar Creek Dr
Laurel Springs, NJ 08021

The Corporation Trust Company
(Registered Agent for Halfday Tonics Inc., individually
and dba Halfday Tonics LLC)
1209 N. Orange St
Wilmington, DE 19801

Current President or CEO
Halfday Tonics Inc., individually and
dba Halfday Tonics LLC
2821 Old Tree Drive
Lancaster, PA 17603

CT Corporation System
(Registered Agent for Halfday Tonics Inc., individually
and dba Halfday Tonics LLC)
820 Bear Tavern Rd
West Trenton, NJ 08628

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

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



Notice of Violation of California Health & Safety Code §25249.5 *et seq.*
August 2, 2024
Page 6

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

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

Lori E. Frugoli, District Attorney
Marin County
3501 Civic Center Drive, Suite 145
San Rafael, CA 94903
consumer@marincounty.org

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

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

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

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

James Clinchard, Assistant District Attorney
El Dorado County
778 Pacific Street
Placerville, CA 95667
EDCDAPROP65@edcda.us

Jeannine M. Pacioni, District Attorney
Monterey County
1200 Aguajito Road
Monterey, CA 93940
Prop65DA@co.monterey.ca.us

Lisa A. Smittcamp, District Attorney
Fresno County
2100 Tulare Street
Fresno, CA 93721
conumerprotection@fresnocountyca.gov

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

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

Clifford H. Newell, District Attorney
Nevada County
201 Commercial St
Nevada City, CA 95959
DA.Prop65@co.nevada.ca.us

Devin Chandler, Program Coordinator
Lassen County
2950 Riverside Dr
Susanville, CA 96130
dchandler@co.lassen.ca.us

Todd Spitzer, District Attorney
Orange County
300 N Flower St
Santa Ana, CA 92703
Prop65notice@ocdapa.org



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

August 2, 2024

Page 7

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

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

Paul E. Zellerbach, 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

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

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

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

Henry Lifton, Deputy City Attorney
San Francisco City Attorney
1390 Market Street, 7th Floor
San Francisco, CA 94102
Prop65@sfcityatty.org

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

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

Christopher Dalbey, Deputy District Attorney
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

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

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

Jill Ravitch, District Attorney
Sonoma County
600 Administration Dr
Sonoma, CA 95403
Jeannie.Barnes@sonoma-county.org

Phillip J. Cline, District Attorney
Tulare County
221 S Mooney Blvd
Visalia, CA 95370
Prop65@co.tulare.ca.us



Notice of Violation of California Health & Safety Code §25249.5 *et seq.*
August 2, 2024
Page 8

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

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

A handwritten signature in black ink that reads "Phyllis Dunwoody". The signature is written in a cursive, flowing style.

Phyllis Dunwoody



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

August 2, 2024

Page 9

Service List

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

APPENDIX A

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

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

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

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

WHAT DOES PROPOSITION 65 REQUIRE?

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

¹ All further regulatory references are to sections of Title 27 of the California Code of Regulations unless otherwise indicated. The statute, regulations and relevant case law are available on the OEHHA website at: <http://www.oehha.ca.gov/prop65/law/index.html>.

female or male reproductive systems or to the developing fetus. This list must be updated at least once a year. The current Proposition 65 list of chemicals is available on the OEHHA website at: http://www.oehha.ca.gov/prop65/prop65_list/Newlist.html.

Only those chemicals that are on the list are regulated under Proposition 65. Businesses that produce, use, release or otherwise engage in activities involving listed chemicals must comply with the following:

Clear and reasonable warnings. A business is required to warn a person before “knowingly and intentionally” exposing that person to a listed chemical unless an exemption applies. The warning given must be “clear and reasonable.” This means that the warning must: (1) clearly make known that the chemical involved is known to cause cancer, or birth defects or other reproductive harm; and (2) be given in such a way that it will effectively reach the person before he or she is exposed to that chemical. Some exposures are exempt from the warning requirement under certain circumstances discussed below.

Prohibition from discharges into drinking water. A business must not knowingly discharge or release a listed chemical into water or onto land where it passes or probably will pass into a source of drinking water. Some discharges are exempt from this requirement under certain circumstances discussed below.

DOES PROPOSITION 65 PROVIDE ANY EXEMPTIONS?

Yes. You should consult the current version of the statute and regulations (<http://www.oehha.ca.gov/prop65/law/index.html>) to determine all applicable exemptions, the most common of which are the following:

Grace Period. Proposition 65 warning requirements do not apply until 12 months after the chemical has been listed. The Proposition 65 discharge prohibition does not apply to a discharge or release of a chemical that takes place less than 20 months after the listing of the chemical.

Governmental agencies and public water utilities. All agencies of the federal, state or local government, as well as entities operating public water systems, are exempt.

Businesses with nine or fewer employees. Neither the warning requirement nor the discharge prohibition applies to a business that employs a total of nine or fewer employees. This includes all employees, not just those present in California.

Exposures that pose no significant risk of cancer. For chemicals that are listed under Proposition 65 as known to the State to cause cancer, a warning is not required if the business causing the exposure can demonstrate that the exposure occurs at a level that poses “no significant risk.” This means that the exposure is calculated to result in not more than one excess case of cancer in 100,000 individuals exposed over a 70-year lifetime. The Proposition 65 regulations identify specific “No Significant Risk Levels” (NSRLs) for many listed carcinogens. Exposures below these levels are exempt from the warning requirement. See OEHHA's website at: <http://www.oehha.ca.gov/prop65/getNSRLs.html> for a list of NSRLs, and Section 25701 *et seq.* of the regulations for information concerning how these levels are calculated.

Exposures that will produce no observable reproductive effect at 1,000 times the level in question. For chemicals known to the State to cause reproductive toxicity, a warning is not required if the business causing the exposure can demonstrate that the exposure will produce no observable effect, even at 1,000 times the level in question. In other words, the level of exposure must be below the “no observable effect level” divided by 1,000. This number is known as the Maximum Allowable Dose Level (MADL). See OEHHA's website at: <http://www.oehha.ca.gov/prop65/getNSRLs.html> for a list of MADLs, and Section 25801 *et seq.* of the regulations for information concerning how these levels are calculated.

Exposures to Naturally Occurring Chemicals in Food. Certain exposures to chemicals that naturally occur in foods (i.e., that do not result from any known human activity, including activity by someone other than the person causing the exposure) are exempt from the warning requirements of the law. If the chemical is a contaminant² it must be reduced to the lowest level feasible. Regulations explaining this exemption can be found in Section 25501.

Discharges that do not result in a “significant amount” of the listed chemical entering any source of drinking water. The prohibition from discharges into drinking water does not apply if the discharger is able to demonstrate that a “significant amount” of the listed chemical has not, does not, or will not pass into or probably pass into a source of drinking water, and that the discharge complies with all other applicable laws, regulations, permits, requirements, or orders. A “significant amount” means any detectable amount, except an amount that would meet the “no significant risk” level for chemicals that cause cancer or that is 1,000 times below the “no observable effect” level for chemicals that cause reproductive toxicity, if an individual were exposed to that amount in drinking water.

² See Section 25501(a)(4).

HOW IS PROPOSITION 65 ENFORCED?

Enforcement is carried out through civil lawsuits. These lawsuits may be brought by the Attorney General, any district attorney, or certain city attorneys. Lawsuits may also be brought by private parties acting in the public interest, but only after providing notice of the alleged violation to the Attorney General, the appropriate district attorney and city attorney, and the business accused of the violation. The notice must provide adequate information to allow the recipient to assess the nature of the alleged violation. The notice must comply with the information and procedural requirements specified in Section 25903 of Title 27 and sections 3100-3103 of Title 11. A private party may not pursue an independent enforcement action under Proposition 65 if one of the governmental officials noted above initiates an enforcement action within sixty days of the notice.

A business found to be in violation of Proposition 65 is subject to civil penalties of up to \$2,500 per day for each violation. In addition, the business may be ordered by a court to stop committing the violation.

A private party may not file an enforcement action based on certain exposures if the alleged violator meets specific conditions. For the following types of exposures, the Act provides an opportunity for the business to correct the alleged violation:

- An exposure to alcoholic beverages that are consumed on the alleged violator's premises to the extent onsite consumption is permitted by law;
- An exposure to a Proposition 65 listed chemical in a food or beverage prepared and sold on the alleged violator's premises that is primarily intended for immediate consumption on- or off-premises. This only applies if the chemical was not intentionally added to the food, and was formed by cooking or similar preparation of food or beverage components necessary to render the food or beverage palatable or to avoid microbiological contamination;
- An exposure to environmental tobacco smoke caused by entry of persons (other than employees) on premises owned or operated by the alleged violator where smoking is permitted at any location on the premises;
- An exposure to listed chemicals in engine exhaust, to the extent the exposure occurs inside a facility owned or operated by the alleged violator and primarily intended for parking non-commercial vehicles.

If a private party alleges that a violation occurred based on one of the exposures described above, the private party must first provide the alleged violator a notice of special compliance procedure and proof of compliance form.

A copy of the notice of special compliance procedure and proof of compliance form is included in Appendix B and can be downloaded from OEHHA's website at:
<http://oehha.ca.gov/prop65/law/p65law72003.html>.

FOR FURTHER INFORMATION ABOUT THE LAW OR REGULATIONS...

Contact the Office of Environmental Health Hazard Assessment's Proposition 65 Implementation Office at (916) 445-6900 or via e-mail at P65Public.Comments@oehha.ca.gov.

Revised: May 2017

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Sections 25249.5, 25249.6, 25249.7, 25249.9, 25249.10 and 25249.11, Health and Safety Code.

EXHIBIT B



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

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

September 6, 2024

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

Dear Alleged Violator and the Appropriate Public Enforcement Agencies:

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

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

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

Alleged Violator. The name of the company covered by this notice that violated Proposition 65 (hereinafter the "Violator") is:

Halfday Tonics Inc., individually and dba Halfday Tonics LLC



Notice of Violation of California Health & Safety Code §25249.5 *et seq.*
September 6, 2024
Page 2

Consumer Product and Listed Chemical. The product that is the subject of this notice and the chemical in that product identified as exceeding allowable levels is:

- **Halfday Raspberry Iced Tea - Perfluorooctanoic Acid (PFOA)**

On November 10, 2017, the State of California officially listed Perfluorooctanoic Acid (PFOA) as a chemical known to cause developmental toxicity. On February 25, 2022, the State of California officially listed Perfluorooctanoic Acid (PFOA) as a chemical known to cause cancer.

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

Route of Exposure. The consumer exposures that are the subject of this notice result from the recommended use of this product. 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 September 6, 2021, as well as every day since the product was 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 product. 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 Violator violated Proposition 65 because it failed to provide persons ingesting this product with appropriate warnings that they are being exposed to this chemical.

Consistent with the public interest goals of Proposition 65 and a desire to have these ongoing violations of California law quickly rectified, ERC is interested in seeking a constructive resolution of this matter that includes an enforceable written agreement by the Violator to: (1) recall the identified product so as to eliminate further exposures to the identified chemical, and/or (2) affix clear and reasonable Prop 65 warning labels for product sold in the future while reformulating such product to eliminate the exposures, and (3) conduct bio-monitoring of all California consumers that have ingested the identified chemical in the listed product, and (4) pay an appropriate civil penalty. Such a resolution will prevent further unwarned consumer exposures to the identified chemical, as well as an expensive and time-consuming litigation.



Notice of Violation of California Health & Safety Code §25249.5 *et seq.*
September 6, 2024
Page 3

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

Sincerely,

A handwritten signature in black ink that reads "Matthew Maclear". The signature is written in a cursive style with a large, stylized initial "M".

Matthew Maclear
AQUA TERRA AERIS LAW GROUP

Attachments

- Certificate of Merit
- Certificate of Service
- OEHHA Summary (to Halfday Tonics Inc., individually and dba Halfday Tonics LLC, and its Registered Agents for Service of Process only)
- Additional Supporting Information for Certificate of Merit (to AG only)



Notice of Violation of California Health & Safety Code §25249.5 *et seq.*
September 6, 2024
Page 4

CERTIFICATE OF MERIT

Re: Environmental Research Center, Inc.'s Notice of Proposition 65 Violations by Halfday Tonics Inc., individually and dba Halfday Tonics LLC

I, Matthew Maclear, declare:

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

2. I am an attorney for the noticing party.

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

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

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

Dated: September 6, 2024

A handwritten signature in black ink that reads "Matthew Maclear". The signature is written in a cursive style with a large initial "M".

Matthew Maclear



Notice of Violation of California Health & Safety Code §25249.5 *et seq.*
September 6, 2024
Page 5

CERTIFICATE OF SERVICE PURSUANT TO 27 CCR § 25903

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

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

On September 6, 2024, between 8:00 a.m. and 5:00 p.m. Eastern Time, I served the following documents: **NOTICE OF VIOLATION OF CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT; “THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY”** on the following parties by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties listed below and depositing it at a U.S. Postal Service Office with the postage fully prepaid for delivery by Certified Mail:

Current President or CEO
Halfday Tonics Inc., individually and
dba Halfday Tonics LLC
20 Cedar Creek Dr
Laurel Springs, NJ 08021

The Corporation Trust Company
(Registered Agent for Halfday Tonics Inc., individually
and dba Halfday Tonics LLC)
1209 N. Orange St
Wilmington, DE 19801

Current President or CEO
Halfday Tonics Inc., individually and
dba Halfday Tonics LLC
2821 Old Tree Drive
Lancaster, PA 17603

CT Corporation System
(Registered Agent for Halfday Tonics Inc., individually
and dba Halfday Tonics LLC)
820 Bear Tavern Rd
West Trenton, NJ 08628

On September 6, 2024, between 8:00 a.m. and 5:00 p.m. Eastern Time, I verified the following documents **NOTICE OF VIOLATIONS, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT; ADDITIONAL SUPPORTING INFORMATION FOR CERTIFICATE OF MERIT AS REQUIRED BY CALIFORNIA HEALTH & SAFETY CODE §25249.7(d)(1)** were served on the following party when a true and correct copy thereof was uploaded on the California Attorney General’s website, which can be accessed at <https://oag.ca.gov/prop65/add-60-day-notice> :

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

On September 6, 2024, between 8:00 a.m. and 5:00 p.m. Eastern Time, I verified the following documents **NOTICE OF VIOLATIONS, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT** were served on the following parties when a true and correct copy thereof was sent via electronic mail to each of the parties listed below:



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

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

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

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

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

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

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

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

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

Lisa A. Smittcamp, District Attorney
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Fresno, CA 93721
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Clifford H. Newell, District Attorney
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201 Commercial St
Nevada City, CA 95959
DA.Prop65@co.nevada.ca.us

Thomas L. Hardy, District Attorney
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Independence, CA 93526
inyda@inyocounty.us

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

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

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Roseville, CA 95678
Prop65@placer.ca.gov

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

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



Notice of Violation of California Health & Safety Code §25249.5 *et seq.*
September 6, 2024
Page 7

Paul E. Zellerbach, District Attorney
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Riverside, CA 92501
Prop65@rivcoda.org

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

Summer Stephan, District Attorney
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SanDiegoDAProp65@sdca.org

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

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

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

Tori Verber Salazar, District Attorney
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Santa Barbara, CA 93101
DAProp65@co.santa-barbara.ca.us

Bud Porter, Supervising Deputy District Attorney
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San Jose, CA 95110
EPU@da.sccgov.org

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Jeffrey S. Rosell, District Attorney
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Jeannie.Barnes@sonoma-county.org

Phillip J. Cline, District Attorney
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Visalia, CA 95370
Prop65@co.tulare.ca.us

Gregory D. Totten, District Attorney
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Ventura, CA 93009
daspecialops@ventura.org

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



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

September 6, 2024

Page 8

On September 6, 2024, between 8:00 a.m. and 5:00 p.m. Eastern Time, I served the following documents: **NOTICE OF VIOLATION, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT** on each of the parties on the Service List attached hereto by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties on the Service List attached hereto, and depositing it at a U.S. Postal Service Office with the postage fully prepaid for delivery by First Class Mail.

Executed on September 6, 2024, in Fort Oglethorpe, Georgia.

A handwritten signature in black ink that reads "Phyllis Dunwoody". The signature is written in a cursive style with a large, prominent "P" and "D".

Phyllis Dunwoody



Service List

District Attorney, Alpine County P.O. Box 248 17300 Hwy 89 Markleeville, CA 96120	District Attorney, Modoc County 204 S Court Street, Room 202 Alturas, CA 96101-4020	District Attorney, Yuba County 215 Fifth Street, Suite 152 Marysville, CA 95901
District Attorney, Amador County 708 Court Street, Suite 202 Jackson, CA 95642	District Attorney, Mono County Post Office Box 617 Bridgeport, CA 93517	Los Angeles City Attorney's Office City Hall East 200 N. Main Street, Suite 800 Los Angeles, CA 90012
District Attorney, Butte County 25 County Center Drive, Suite 245 Oroville, CA 95965	District Attorney, San Benito County 419 Fourth Street, 2nd Floor Hollister, CA 95023	
District Attorney, Colusa County 310 6 th St Colusa, CA 95932	District Attorney, San Bernardino County 303 West Third Street San Bernardino, CA 92415	
District Attorney, Del Norte County 450 H Street, Room 171 Crescent City, CA 95531	District Attorney, San Mateo County 400 County Ctr., 3rd Floor Redwood City, CA 94063	
District Attorney, Glenn County Post Office Box 430 Willows, CA 95988	District Attorney, Shasta County 1355 West Street Redding, CA 96001	
District Attorney, Humboldt County 825 5th Street 4 th Floor Eureka, CA 95501	District Attorney, Sierra County Post Office Box 457 100 Courthouse Square, 2 nd Floor Downieville, CA 95936	
District Attorney, Imperial County 940 West Main Street, Ste 102 El Centro, CA 92243	District Attorney, Siskiyou County Post Office Box 986 Yreka, CA 96097	
District Attorney, Kern County 1215 Truxtun Avenue Bakersfield, CA 93301	District Attorney, Solano County 675 Texas Street, Ste 4500 Fairfield, CA 94533	
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Prohibition from discharges into drinking water. A business must not knowingly discharge or release a listed chemical into water or onto land where it passes or probably will pass into a source of drinking water. Some discharges are exempt from this requirement under certain circumstances discussed below.

DOES PROPOSITION 65 PROVIDE ANY EXEMPTIONS?

Yes. You should consult the current version of the statute and regulations (<http://www.oehha.ca.gov/prop65/law/index.html>) to determine all applicable exemptions, the most common of which are the following:

Grace Period. Proposition 65 warning requirements do not apply until 12 months after the chemical has been listed. The Proposition 65 discharge prohibition does not apply to a discharge or release of a chemical that takes place less than 20 months after the listing of the chemical.

Governmental agencies and public water utilities. All agencies of the federal, state or local government, as well as entities operating public water systems, are exempt.

Businesses with nine or fewer employees. Neither the warning requirement nor the discharge prohibition applies to a business that employs a total of nine or fewer employees. This includes all employees, not just those present in California.

Exposures that pose no significant risk of cancer. For chemicals that are listed under Proposition 65 as known to the State to cause cancer, a warning is not required if the business causing the exposure can demonstrate that the exposure occurs at a level that poses “no significant risk.” This means that the exposure is calculated to result in not more than one excess case of cancer in 100,000 individuals exposed over a 70-year lifetime. The Proposition 65 regulations identify specific “No Significant Risk Levels” (NSRLs) for many listed carcinogens. Exposures below these levels are exempt from the warning requirement. See OEHHA's website at: <http://www.oehha.ca.gov/prop65/getNSRLs.html> for a list of NSRLs, and Section 25701 *et seq.* of the regulations for information concerning how these levels are calculated.

Exposures that will produce no observable reproductive effect at 1,000 times the level in question. For chemicals known to the State to cause reproductive toxicity, a warning is not required if the business causing the exposure can demonstrate that the exposure will produce no observable effect, even at 1,000 times the level in question. In other words, the level of exposure must be below the “no observable effect level” divided by 1,000. This number is known as the Maximum Allowable Dose Level (MADL). See OEHHA's website at: <http://www.oehha.ca.gov/prop65/getNSRLs.html> for a list of MADLs, and Section 25801 *et seq.* of the regulations for information concerning how these levels are calculated.

Exposures to Naturally Occurring Chemicals in Food. Certain exposures to chemicals that naturally occur in foods (i.e., that do not result from any known human activity, including activity by someone other than the person causing the exposure) are exempt from the warning requirements of the law. If the chemical is a contaminant² it must be reduced to the lowest level feasible. Regulations explaining this exemption can be found in Section 25501.

Discharges that do not result in a “significant amount” of the listed chemical entering any source of drinking water. The prohibition from discharges into drinking water does not apply if the discharger is able to demonstrate that a “significant amount” of the listed chemical has not, does not, or will not pass into or probably pass into a source of drinking water, and that the discharge complies with all other applicable laws, regulations, permits, requirements, or orders. A “significant amount” means any detectable amount, except an amount that would meet the “no significant risk” level for chemicals that cause cancer or that is 1,000 times below the “no observable effect” level for chemicals that cause reproductive toxicity, if an individual were exposed to that amount in drinking water.

² See Section 25501(a)(4).

HOW IS PROPOSITION 65 ENFORCED?

Enforcement is carried out through civil lawsuits. These lawsuits may be brought by the Attorney General, any district attorney, or certain city attorneys. Lawsuits may also be brought by private parties acting in the public interest, but only after providing notice of the alleged violation to the Attorney General, the appropriate district attorney and city attorney, and the business accused of the violation. The notice must provide adequate information to allow the recipient to assess the nature of the alleged violation. The notice must comply with the information and procedural requirements specified in Section 25903 of Title 27 and sections 3100-3103 of Title 11. A private party may not pursue an independent enforcement action under Proposition 65 if one of the governmental officials noted above initiates an enforcement action within sixty days of the notice.

A business found to be in violation of Proposition 65 is subject to civil penalties of up to \$2,500 per day for each violation. In addition, the business may be ordered by a court to stop committing the violation.

A private party may not file an enforcement action based on certain exposures if the alleged violator meets specific conditions. For the following types of exposures, the Act provides an opportunity for the business to correct the alleged violation:

- An exposure to alcoholic beverages that are consumed on the alleged violator's premises to the extent onsite consumption is permitted by law;
- An exposure to a Proposition 65 listed chemical in a food or beverage prepared and sold on the alleged violator's premises that is primarily intended for immediate consumption on- or off-premises. This only applies if the chemical was not intentionally added to the food, and was formed by cooking or similar preparation of food or beverage components necessary to render the food or beverage palatable or to avoid microbiological contamination;
- An exposure to environmental tobacco smoke caused by entry of persons (other than employees) on premises owned or operated by the alleged violator where smoking is permitted at any location on the premises;
- An exposure to listed chemicals in engine exhaust, to the extent the exposure occurs inside a facility owned or operated by the alleged violator and primarily intended for parking non-commercial vehicles.

If a private party alleges that a violation occurred based on one of the exposures described above, the private party must first provide the alleged violator a notice of special compliance procedure and proof of compliance form.

A copy of the notice of special compliance procedure and proof of compliance form is included in Appendix B and can be downloaded from OEHHA's website at:
<http://oehha.ca.gov/prop65/law/p65law72003.html>.

FOR FURTHER INFORMATION ABOUT THE LAW OR REGULATIONS...

Contact the Office of Environmental Health Hazard Assessment's Proposition 65 Implementation Office at (916) 445-6900 or via e-mail at P65Public.Comments@oehha.ca.gov.

Revised: May 2017

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Sections 25249.5, 25249.6, 25249.7, 25249.9, 25249.10 and 25249.11, Health and Safety Code.

EXHIBIT C



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

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

August 1, 2025

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

Dear Alleged Violator and the Appropriate Public Enforcement Agencies:

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

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

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

Alleged Violator. The name of the company covered by this notice that violated Proposition 65 (hereinafter the "Violator") is:

Halfday Tonics Inc., individually and dba Halfday Tonics LLC



Notice of Violation of California Health & Safety Code §25249.5 *et seq.*
August 1, 2025
Page 2

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

- **Halfday New Era Iced Tea Prebiotics Lemon Tea - Perfluorooctanoic Acid (PFOA)**
- **Halfday New Era Iced Tea Prebiotics Green Tea with Honey & Ginseng - Perfluorooctanoic Acid (PFOA)**
- **Halfday New Era Iced Tea Prebiotics Peach Tea - Perfluorooctanoic Acid (PFOA)**
- **Halfday Cranberry Iced Tea – Bisphenol A (BPA)**
- **Halfday Raspberry Iced Tea – Bisphenol A (BPA)**

On November 10, 2017, the State of California officially listed Perfluorooctanoic Acid (PFOA) as a chemical known to cause developmental toxicity. On February 25, 2022, the State of California officially listed Perfluorooctanoic Acid (PFOA) as a chemical known to cause cancer.

On May 11, 2015, the State of California officially listed Bisphenol A (BPA) as a chemical known to cause female reproductive toxicity. On December 18, 2020, the State of California officially listed Bisphenol A (BPA) as a chemical known to cause developmental toxicity.

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

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

Approximate Time Period of Violations. Ongoing violations have occurred every day since at least August 1, 2022, as well as every day since the products were introduced into the California marketplace, and will continue every day until clear and reasonable warnings are provided to product purchasers and users or until these known toxic chemicals are either removed from or reduced to allowable levels in the products. Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to the identified chemicals. The method of warning should be a warning that appears on the product label. The Violator violated Proposition 65 because it failed to provide persons ingesting these products with appropriate warnings that they are being exposed to these chemicals.

Consistent with the public interest goals of Proposition 65 and a desire to have these ongoing violations of California law quickly rectified, ERC is interested in seeking a constructive resolution of this matter that includes an enforceable written agreement by the Violator to: (1) recall the identified products so as to eliminate further exposures to the identified chemicals, and/or (2) affix clear and reasonable Prop 65



Notice of Violation of California Health & Safety Code §25249.5 *et seq.*
August 1, 2025
Page 3

warning labels for products sold in the future while reformulating such products to eliminate the exposures, and (3) conduct bio-monitoring of all California consumers that have ingested the identified chemicals in the listed products, and (4) pay an appropriate civil penalty. Such a resolution will prevent further unwarned consumer exposures to the identified chemicals, as well as an expensive and time-consuming litigation.

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

Sincerely,

A handwritten signature in black ink that reads "Matthew Maclear". The signature is written in a cursive style with a large, stylized initial "M".

Matthew Maclear
AQUA TERRA AERIS LAW GROUP

Attachments

- Certificate of Merit
- Certificate of Service
- OEHHA Summary (to Halfday Tonics Inc., individually and dba Halfday Tonics LLC, and its Registered Agents for Service of Process only)
- Additional Supporting Information for Certificate of Merit (to AG only)



Notice of Violation of California Health & Safety Code §25249.5 *et seq.*
August 1, 2025
Page 4

CERTIFICATE OF MERIT

Health and Safety Code Section 25249.7 (d)

Re: Environmental Research Center, Inc.'s Notice of Proposition 65 Violations by Halfday Tonics Inc., individually and dba Halfday Tonics LLC

I, Matthew Maclear, declare:

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

2. I am the attorney for the noticing party, Environmental Research Center.

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.

1. Based on the information obtained through those 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 the 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 violators will be able to establish any of the affirmative defenses set forth in the statute.

2. 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 the information identified in Health and 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.

A handwritten signature in cursive script that reads "Matthew Maclear".

Dated: August 1, 2025

Matthew Maclear



Notice of Violation of California Health & Safety Code §25249.5 *et seq.*
August 1, 2025
Page 5

CERTIFICATE OF SERVICE PURSUANT TO 27 CCR § 25903

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

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

On August 1, 2025, between 8:00 a.m. and 5:00 p.m. Eastern Time, I verified 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" were served on the following party when a true and correct copy thereof was sent via electronic mail to the party listed below, through its attorney pursuant to agreement:

Halfday Tonics Inc., individually and
dba Halfday Tonics LLC
c/o James Robert Maxwell
Rogers Joseph O'Donnell
311 California Street
San Francisco, CA 94104
Email: jmaxwell@rjo.com

On August 1, 2025, between 8:00 a.m. and 5:00 p.m. Eastern Time, I verified the following documents **NOTICE OF VIOLATIONS, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT; ADDITIONAL SUPPORTING INFORMATION FOR CERTIFICATE OF MERIT AS REQUIRED BY CALIFORNIA HEALTH & SAFETY CODE §25249.7(d)(1)** were served on the following party when a true and correct copy thereof was uploaded on the California Attorney General's website, which can be accessed at <https://oag.ca.gov/prop65/add-60-day-notice> :

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

On August 1, 2025, between 8:00 a.m. and 5:00 p.m. Eastern Time, I verified the following documents **NOTICE OF VIOLATIONS, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT** were served on the following parties when a true and correct copy thereof was sent via electronic mail to each of the parties listed below:

Royl Roberts, Interim 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



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

August 1, 2025

Page 6

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

James Clinchard, Assistant District Attorney
El Dorado County
778 Pacific Street
Placerville, CA 95667
EDCDAPROP65@edcda.us

Lisa A. Smittcamp, District Attorney
Fresno County
2100 Tulare Street
Fresno, CA 93721
conumerprotection@fresnocountyca.gov

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

Devin Chandler, Program Coordinator
Lassen County
2950 Riverside Dr
Susanville, CA 96130
dchandler@co.lassen.ca.us

Lori E. Frugoli, District Attorney
Marin County
3501 Civic Center Drive, Suite 145
San Rafael, CA 94903
consumer@marincounty.org

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

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

Jeannine M. Pacioni, District Attorney
Monterey County
1200 Aguajito Road
Monterey, CA 93940
Prop65DA@co.monterey.ca.us

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

Clifford H. Newell, District Attorney
Nevada County
201 Commercial St
Nevada City, CA 95959
DA.Prop65@co.nevada.ca.us

Todd Spitzer, District Attorney
Orange County
300 N Flower St
Santa Ana, CA 92703
Prop65notice@ocdapa.org

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

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

Paul E. Zellerbach, 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



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

August 1, 2025

Page 7

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

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

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

Henry Lifton, Deputy City Attorney
San Francisco City Attorney
1390 Market Street, 7th Floor
San Francisco, CA 94102
Prop65@sfcityatty.org

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

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

Christopher Dalbey, Deputy District Attorney
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

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

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

Carla Rodriguez, District Attorney
Sonoma County
600 Administration Dr, Rm 212
Santa Rosa CA 95403
ECLD@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



Notice of Violation of California Health & Safety Code §25249.5 *et seq.*
August 1, 2025
Page 8

On August 1, 2025, between 8:00 a.m. and 5:00 p.m. Eastern Time, I served the following documents: **NOTICE OF VIOLATION, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT** on each of the parties on the Service List attached hereto by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties on the Service List attached hereto, and depositing it at a U.S. Postal Service Office with the postage fully prepaid for delivery by First Class Mail.

Executed on August 1, 2025, in Fort Oglethorpe, Georgia.

A handwritten signature in black ink that reads "Phyllis Dunwoody". The signature is written in a cursive style with a horizontal line underneath it.

Phyllis Dunwoody



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

August 1, 2025

Page 9

Service List

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

APPENDIX A

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

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

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

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

WHAT DOES PROPOSITION 65 REQUIRE?

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

¹ All further regulatory references are to sections of Title 27 of the California Code of Regulations unless otherwise indicated. The statute, regulations and relevant case law are available on the OEHHA website at: <http://www.oehha.ca.gov/prop65/law/index.html>.

female or male reproductive systems or to the developing fetus. This list must be updated at least once a year. The current Proposition 65 list of chemicals is available on the OEHHA website at: http://www.oehha.ca.gov/prop65/prop65_list/Newlist.html.

Only those chemicals that are on the list are regulated under Proposition 65. Businesses that produce, use, release or otherwise engage in activities involving listed chemicals must comply with the following:

Clear and reasonable warnings. A business is required to warn a person before “knowingly and intentionally” exposing that person to a listed chemical unless an exemption applies. The warning given must be “clear and reasonable.” This means that the warning must: (1) clearly make known that the chemical involved is known to cause cancer, or birth defects or other reproductive harm; and (2) be given in such a way that it will effectively reach the person before he or she is exposed to that chemical. Some exposures are exempt from the warning requirement under certain circumstances discussed below.

Prohibition from discharges into drinking water. A business must not knowingly discharge or release a listed chemical into water or onto land where it passes or probably will pass into a source of drinking water. Some discharges are exempt from this requirement under certain circumstances discussed below.

DOES PROPOSITION 65 PROVIDE ANY EXEMPTIONS?

Yes. You should consult the current version of the statute and regulations (<http://www.oehha.ca.gov/prop65/law/index.html>) to determine all applicable exemptions, the most common of which are the following:

Grace Period. Proposition 65 warning requirements do not apply until 12 months after the chemical has been listed. The Proposition 65 discharge prohibition does not apply to a discharge or release of a chemical that takes place less than 20 months after the listing of the chemical.

Governmental agencies and public water utilities. All agencies of the federal, state or local government, as well as entities operating public water systems, are exempt.

Businesses with nine or fewer employees. Neither the warning requirement nor the discharge prohibition applies to a business that employs a total of nine or fewer employees. This includes all employees, not just those present in California.

Exposures that pose no significant risk of cancer. For chemicals that are listed under Proposition 65 as known to the State to cause cancer, a warning is not required if the business causing the exposure can demonstrate that the exposure occurs at a level that poses “no significant risk.” This means that the exposure is calculated to result in not more than one excess case of cancer in 100,000 individuals exposed over a 70-year lifetime. The Proposition 65 regulations identify specific “No Significant Risk Levels” (NSRLs) for many listed carcinogens. Exposures below these levels are exempt from the warning requirement. See OEHHA's website at: <http://www.oehha.ca.gov/prop65/getNSRLs.html> for a list of NSRLs, and Section 25701 *et seq.* of the regulations for information concerning how these levels are calculated.

Exposures that will produce no observable reproductive effect at 1,000 times the level in question. For chemicals known to the State to cause reproductive toxicity, a warning is not required if the business causing the exposure can demonstrate that the exposure will produce no observable effect, even at 1,000 times the level in question. In other words, the level of exposure must be below the “no observable effect level” divided by 1,000. This number is known as the Maximum Allowable Dose Level (MADL). See OEHHA's website at: <http://www.oehha.ca.gov/prop65/getNSRLs.html> for a list of MADLs, and Section 25801 *et seq.* of the regulations for information concerning how these levels are calculated.

Exposures to Naturally Occurring Chemicals in Food. Certain exposures to chemicals that naturally occur in foods (i.e., that do not result from any known human activity, including activity by someone other than the person causing the exposure) are exempt from the warning requirements of the law. If the chemical is a contaminant² it must be reduced to the lowest level feasible. Regulations explaining this exemption can be found in Section 25501.

Discharges that do not result in a “significant amount” of the listed chemical entering any source of drinking water. The prohibition from discharges into drinking water does not apply if the discharger is able to demonstrate that a “significant amount” of the listed chemical has not, does not, or will not pass into or probably pass into a source of drinking water, and that the discharge complies with all other applicable laws, regulations, permits, requirements, or orders. A “significant amount” means any detectable amount, except an amount that would meet the “no significant risk” level for chemicals that cause cancer or that is 1,000 times below the “no observable effect” level for chemicals that cause reproductive toxicity, if an individual were exposed to that amount in drinking water.

² See Section 25501(a)(4).

HOW IS PROPOSITION 65 ENFORCED?

Enforcement is carried out through civil lawsuits. These lawsuits may be brought by the Attorney General, any district attorney, or certain city attorneys. Lawsuits may also be brought by private parties acting in the public interest, but only after providing notice of the alleged violation to the Attorney General, the appropriate district attorney and city attorney, and the business accused of the violation. The notice must provide adequate information to allow the recipient to assess the nature of the alleged violation. The notice must comply with the information and procedural requirements specified in Section 25903 of Title 27 and sections 3100-3103 of Title 11. A private party may not pursue an independent enforcement action under Proposition 65 if one of the governmental officials noted above initiates an enforcement action within sixty days of the notice.

A business found to be in violation of Proposition 65 is subject to civil penalties of up to \$2,500 per day for each violation. In addition, the business may be ordered by a court to stop committing the violation.

A private party may not file an enforcement action based on certain exposures if the alleged violator meets specific conditions. For the following types of exposures, the Act provides an opportunity for the business to correct the alleged violation:

- An exposure to alcoholic beverages that are consumed on the alleged violator's premises to the extent onsite consumption is permitted by law;
- An exposure to a Proposition 65 listed chemical in a food or beverage prepared and sold on the alleged violator's premises that is primarily intended for immediate consumption on- or off-premises. This only applies if the chemical was not intentionally added to the food, and was formed by cooking or similar preparation of food or beverage components necessary to render the food or beverage palatable or to avoid microbiological contamination;
- An exposure to environmental tobacco smoke caused by entry of persons (other than employees) on premises owned or operated by the alleged violator where smoking is permitted at any location on the premises;
- An exposure to listed chemicals in engine exhaust, to the extent the exposure occurs inside a facility owned or operated by the alleged violator and primarily intended for parking non-commercial vehicles.

If a private party alleges that a violation occurred based on one of the exposures described above, the private party must first provide the alleged violator a notice of special compliance procedure and proof of compliance form.

A copy of the notice of special compliance procedure and proof of compliance form is included in Appendix B and can be downloaded from OEHHA's website at:
<http://oehha.ca.gov/prop65/law/p65law72003.html>.

FOR FURTHER INFORMATION ABOUT THE LAW OR REGULATIONS...

Contact the Office of Environmental Health Hazard Assessment's Proposition 65 Implementation Office at (916) 445-6900 or via e-mail at P65Public.Comments@oehha.ca.gov.

Revised: May 2017

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Sections 25249.5, 25249.6, 25249.7, 25249.9, 25249.10 and 25249.11, Health and Safety Code.