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5 San Francisco, CA 94104
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7 Facsimile: (415) 362-2006

8 Attorneys for Plaintiff
9 LAURÉNCE VINOCUR

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 COUNTY OF SAN FRANCISCO - UNLIMITED CIVIL JURISDICTION

12 LAURENCE VINOCUR,

13 Plaintiff,

14 v.

15 FEDERAL CARTRIDGE COMPANY,
16 and DOES 1 -100, inclusive,

17 Defendants.

Case No. _____

CGC-15-546420

COMPLAINT FOR CIVIL PENALTIES
AND INJUNCTIVE RELIEF

(Health & Safety Code § 25249.6, *et seq.*)

BY FAX

ENDORSED
FILED
Superior Court of California
County of San Francisco

JUN 17 2015

CLERK OF THE COURT
BY: ROSSALY DE LA VEGA
Deputy Clerk

NATURE OF THE ACTION

1
2 1. This Complaint is a representative action brought by plaintiff LAURENCE
3 VINOCUR (“Plaintiff”) in the public interest of the citizens of the State of California to
4 enforce the citizens’ right to be informed of the presence of Di(2-ethylhexyl)phthalate
5 (“DEHP”), a toxic chemical found in hearing protection with vinyl/PVC components sold in
6 California. DEHP is a toxic chemical used to treat vinyl/PVC, which is used in a variety of
7 products.

8 2. By this Complaint, Plaintiff seeks to remedy Defendants’ continuing failures to
9 warn California citizens about the risk of exposure to DEHP present in and on hearing
10 protection with vinyl/PVC components manufactured, distributed, and offered for sale or use to
11 consumers throughout the State of California.

12 3. Detectable levels of DEHP are commonly found in and on hearing protection
13 with vinyl/PVC components that Defendants manufacture, distribute, and offer for sale to
14 consumers throughout the State of California. Individuals in California, including infants and
15 children, are exposed to DEHP in the products through various routes of exposure: (i) through
16 dermal exposure when DEHP from hearing protection with vinyl/PVC components accumulate
17 in ambient particles that are subsequently touched by such individuals; and (ii) through
18 ingestion when such particles are brought into contact with the mouth.

19 4. Under the Safe Drinking Water and Toxic Enforcement Act of 1986, codified at
20 Health and Safety Code section 25249.6 *et seq.* (“Proposition 65”), “[n]o person in the course
21 of doing business shall knowingly and intentionally expose any individual to a chemical known
22 to the state to cause cancer or reproductive toxicity without first giving clear and reasonable
23 warning to such individual” Health & Safety Code § 25249.6.

24 5. Pursuant to Proposition 65, on October 24, 2003, California identified and listed
25 DEHP as a chemical known to cause cancer. DEHP became subject to the “clear and
26 reasonable warning” requirements of the Act one year later on October 24, 2004. Cal. Code
27 Regs., Tit. 27, § 27001(c); Health & Safety Code §§ 25249.8 & 25249.10(b).

28 6. DEHP is hereinafter referred to as the “Listed Chemical.”

1 corporation, or association that is a citizen of the State of California, has sufficient minimum
2 contacts in the State of California, and/or otherwise purposefully avails itself of the California
3 market. Defendants' purposeful availment of California as a marketplace for the Products
4 renders the exercise of personal jurisdiction by California courts over Defendants consistent
5 with traditional notions of fair play and substantial justice.

6 **FIRST CAUSE OF ACTION**

7 **(Violation of Proposition 65 - Against All Defendants)**

8 20. Plaintiff re-alleges and incorporates by reference, as if fully set forth herein,
9 Paragraphs 1 through 19, inclusive.

10 21. In enacting Proposition 65, in the preamble to the Safe Drinking Water and
11 Toxic Enforcement Act of 1986, the People of California expressly declared their right "[t]o be
12 informed about exposures to chemicals that cause cancer, birth defects, or other reproductive
13 harm."

14 22. Proposition 65 states, "[n]o person in the course of doing business shall
15 knowingly and intentionally expose any individual to a chemical known to the state to cause
16 cancer or reproductive toxicity without first giving clear and reasonable warning to such
17 individual" Health & Safety Code § 25249.6.

18 23. On October 24, 2014, Plaintiff's sixty-day notice of violation (the "Initial
19 Notice"), together with the requisite certificate of merit, was provided to Alliant Techsystems
20 Operations LLC ("ATO") and certain public enforcement agencies stating that, as a result of
21 ATO's sales of the Products containing DEHP, purchasers and users in the State of California
22 were being exposed to DEHP resulting from their reasonably foreseeable use of the Products,
23 without the individual purchasers and users first having been provided with a "clear and
24 reasonable warning" regarding such toxic exposures, as required by Proposition 65. A true and
25 correct copy of the Initial Notice is attached hereto as Exhibit A. Based on representations that
26 Federal and downstream entities, and not ATO, were responsible for all sales of the Products,
27 on March 13, 2015, Plaintiff's supplemental sixty-day notice of violation (the "Supplemental
28 Notice"), together with the requisite certificate of merit, was provided to Federal Cartridge and

1 certain public enforcement agencies stating that, as a result of Federal's sales of the Products
2 containing DEHP, purchasers and users in the State of California were being exposed to DEHP
3 resulting from their reasonably foreseeable use of the Products, without the individual
4 purchasers and users first having been provided with a "clear and reasonable warning"
5 regarding such toxic exposures, as required by Proposition 65. A true and correct copy of the
6 Supplemental Notice is attached hereto as Exhibit B.

7 24. Defendants have engaged in the manufacture, importation, distribution, sale, and
8 offering of the Products for sale or use in violation of Health and Safety Code section 25249.6,
9 and Defendants' violations have continued to occur beyond their receipt of Plaintiff's sixty-day
10 notice of violation. As such, Defendants' violations are ongoing and continuous in nature, and
11 will continue to occur in the future.

12 25. After receiving Plaintiff's Initial Notice and Supplemental Notice, the
13 appropriate public enforcement agencies have failed to commence and diligently prosecute a
14 cause of action against Defendants under Proposition 65.

15 26. The Products manufactured, imported, distributed, sold, and offered for sale or
16 use in California by Defendants contain the Listed Chemical such that they require a "clear and
17 reasonable" warning under Proposition 65.

18 27. Defendants knew or should have known that the Products they manufacture,
19 import, distribute, sell, and offer for sale or use in California contain the Listed Chemical.

20 28. The Listed Chemical is present in or on the Products in such a way as to expose
21 individuals to the Listed Chemical through dermal contact and/or ingestion during reasonably
22 foreseeable use of the Products including through workplace exposure to the Products.

23 29. The normal and reasonably foreseeable uses of the Products have caused, and
24 continue to cause, consumer exposures to the Listed Chemical, as such exposures are defined
25 by the California Code of Regulations Title 27, section 25602(b).

26 30. Defendants had knowledge that the normal and reasonably foreseeable uses of
27 the Products expose individuals to the Listed Chemical through dermal contact and/or
28 ingestion.

1 warning” as defined by the California Code of Regulations title 27, section 25601 *et seq.*, as to
2 the harms associated with exposures the Listed Chemical;

3 3. That the Court, pursuant to Health and Safety Code section 25249.7(a), issue
4 preliminary and permanent injunctions mandating that Defendants recall all Products currently
5 in the chain of commerce in California without a “clear and reasonable warning” as defined by
6 California Code of Regulations title 27, section 25601 *et seq.*;

7 4. That the Court grant Plaintiff his reasonable attorneys’ fees and costs of suit; and

8 5. That the Court grant such other and further relief as may be just and proper.
9

10 Dated: June 16, 2015

Respectfully Submitted,

11 MOSCONE EMBLIDGE & OTIS LLP

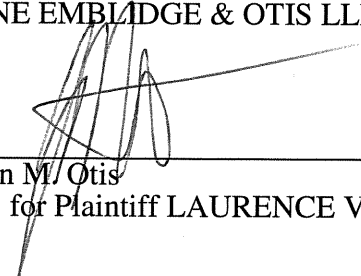
12
13 By: 
14 Jordan M. Otis
15 Attorneys for Plaintiff LAURENCE VINOCUR

EXHIBIT A

EXHIBIT A

60-DAY NOTICE OF VIOLATION

SENT IN COMPLIANCE WITH CALIFORNIA HEALTH & SAFETY CODE § 25249.7(d)

DATE: October 24, 2014

TO: Mark DeYoung, President – Alliant Techsystems Operations LLC
California Attorney General's Office;
District Attorney's Office for 58 Counties; and
City Attorneys for San Francisco, San Diego, San Jose, Sacramento and Los Angeles

FROM: Laurence Vinocur

I. INTRODUCTION

My name is Laurence Vinocur. I am a citizen of the State of California acting in the interest of the general public. I seek to promote awareness of exposures to toxic chemicals in products sold in California and, if possible, to improve human health by reducing hazardous substances contained in such items. This Notice is provided to the public agencies listed above pursuant to California Health & Safety Code § 25249.6 *et seq.* ("Proposition 65"). As noted above, notice is also being provided to the alleged violator, Alliant Techsystems Operations LLC (the "Violator"). The violations covered by this Notice consist of the product exposures, routes of exposure, and type of harm potentially resulting from exposure to the toxic chemical ("listed chemical") identified below, as follows:

Product Exposure: See Section VII. Exhibit A
Listed Chemical: Di(2-ethylhexyl)phthalate ("DEHP")
Routes of Exposure: Ingestion, Dermal
Types of Harm: Birth Defects and Other Reproductive Harm

II. NATURE OF ALLEGED VIOLATION (PRODUCT EXPOSURE)

The specific type of product that is causing consumer and occupational exposures in violation of Proposition 65, and that is covered by this Notice, is listed under "Product Category/Type" in Exhibit A in Section VII below. All products within the category covered by this Notice shall be referred to hereinafter as the "products." Exposures to the listed chemical from the use of the products have been occurring without the clear and reasonable warning required by Proposition 65, dating as far back as October 24, 2011. Without proper warnings regarding the toxic effects of exposures to the listed chemical resulting from contact with the products, California citizens lack the information necessary to make informed decisions on whether and how to eliminate (or reduce) the risk of exposure to the listed chemical from the reasonably foreseeable use of the products.

California citizens, through the act of buying, acquiring or utilizing the products, are exposed to the listed chemical. Women of childbearing age ingest the listed chemical when they, among other activities, touch the products and transfer the listed chemical from the products to their mouths through hand-to-mouth activities that may continue to occur for a significant period after contact with the products stops. Women of childbearing age are exposed to the listed chemical through direct dermal contact when they, among other activities, handle, touch or otherwise use the products.

III. CONTACT INFORMATION

Please direct all questions concerning this notice to me through my counsel's office at the following address:

Laurence Vinocur
c/o Josh Voorhees
The Chanler Group
Parker Plaza
2560 Ninth Street, Suite 214
Berkeley, CA 94710
Telephone: (510) 848-8880

IV. PROPOSITION 65 INFORMATION

For general information concerning the provisions of Proposition 65, please feel free to contact the Office of Environmental Health Hazard Assessment's ("OEHHA") Proposition 65 Implementation Office at (916) 445-6900. For the Violator's reference, I have attached a copy of "Proposition 65: A Summary" which has been prepared by OEHHA.

V. RESOLUTION OF NOTICED CLAIMS

Based on the allegations set forth in this Notice, I intend to file a citizen enforcement lawsuit against the alleged Violator unless such Violator enters into a binding written agreement to: (1) recall products already sold or undertake best efforts to ensure that the requisite health hazard warnings are provided to those who have received such products; (2) provide clear and reasonable warnings for products sold in the future or reformulate such products to eliminate the DEHP exposures; and (3) pay an appropriate civil penalty based on the factors enumerated in California Health & Safety Code § 25249.7(b). If the alleged Violator is interested in resolving this dispute without resorting to time-consuming and expensive litigation, please feel free to contact my counsel identified in Section III above. It should be noted that neither my counsel nor I can: (1) finalize any settlement until after the 60-day notice period has expired; nor (2) speak for the Attorney General or any district or city attorney who received this Notice. Therefore, while reaching an agreement with me will resolve my claims, such agreement may not satisfy the public prosecutors.

VI. ADDITIONAL NOTICE INFORMATION

Identified below are specific examples of products recently purchased and witnessed as being available for purchase or use in California that are within the category or type of offending product covered by this Notice. Based on publicly available information, the retailers, distributors and/or manufacturers of the examples within the category or type of product are also provided below. I believe and allege that the sale of the offending products also has occurred without the requisite Proposition 65 “clear and reasonable warning” at one or more locations and/or via other means including, but not limited to, transactions made over-the-counter, business-to-business, through the internet and/or via a catalog by the Violator and other retailers and distributors of the manufacturer.

<i>Product*</i>	<i>Retailer(s)</i>	<i>Manufacturer(s)/Distributor(s)</i>
Champion Eyes & Ears Ballistic Eyes & Ears Combo, #40704, UPC #0 76683 40704 7	Cabela’s Incorporated (http://www.cabelas.com)	Alliant Techsystems Operations LLC
Champion Eyes & Ears Electronic Earmuffs, #40974, UPC #0 76683 40974 4	Wal-Mart Stores, Inc. Contra Costa County, Northern California	Alliant Techsystems Operations LLC

VII. EXHIBIT A

<i>Product Category/Type</i>	<i>Such As*</i>	<i>Toxins</i>
Hearing Protection with Vinyl/PVC Components	Champion Eyes & Ears Ballistic Eyes & Ears Combo, #40704, UPC #0 76683 40704 7 Champion Eyes & Ears Electronic Earmuffs, #40974, UPC #0 76683 40974 4	Di(2-ethylhexyl)phthalate

*The specifically identified examples of the type of product that is subject to this Notice are for the recipient’s benefit to assist in its investigation of, among other things, the magnitude of potential exposures to the listed chemical from other items within the product category/type listed in Exhibit A. It is important to note that these examples are not meant to be an exhaustive or comprehensive identification of each specific offending product of the type listed under “Product Category/Type” in Exhibit A. Further, it is this citizen’s position that the alleged Violator is obligated to continue to conduct in good faith an investigation into other specific products within the type or category described above that may have been manufactured, distributed, sold, shipped, stored (or otherwise within the notice recipient’s custody or control) during the relevant period so as to ensure that the requisite toxic warnings were and are provided to California citizens prior to purchase.

PROOF OF SERVICE

I, the undersigned, declare under penalty of perjury:

I am over the age of 18 years, and not a party to the within action; my business address is Parker Plaza, 2560 Ninth Street, Suite 214, Berkeley, CA 94710.

On October 24, 2014, I served the following documents:

**60-DAY NOTICE OF VIOLATION SENT IN COMPLIANCE WITH
HEALTH & SAFETY CODE § 25249.7(d);**

PROPOSITION 65: A SUMMARY;

CERTIFICATE OF MERIT; AND

**CERTIFICATE OF MERIT ATTACHMENTS (SERVED ONLY ON THE
ATTORNEY GENERAL)**

on the entity listed below via First Class Certified Mail through the United States Postal Service by placing a true and correct copy in a sealed envelope, addressed to the entity listed below and providing each envelope to a United States Postal Service Representative:

Mark DeYoung, President
Alliant Techsystems Operations LLC
7480 Flying Cloud Drive
Eden Prairie, MN 55344

Mark DeYoung, President
Alliant Techsystems Operations LLC
P.O. Box 41730
Minneapolis, MN 55441

as well as by providing copies of the above documents electronically uploaded to the public enforcers according to directions from their respective offices, and/or by placing a true and correct copy in a sealed envelope, addressed to each party listed below, and served as follows:

<i>Electronically Uploaded to the Attorney General's website:</i>	The Attorney General of the State of California;
<i>By placing each envelope in a United States Postal Service mailbox, postage prepaid:</i>	The District Attorney for Each of the 58 counties in California; and The City Attorney for Los Angeles, San Diego, San Jose, San Francisco and Sacramento

A list of addresses for each of these recipients is attached.

Executed on October 24, 2014, at Berkeley, California.



Caroline Pak

CERTIFICATE OF MERIT

Health and Safety Code Section 25249.7(d)

I, Clifford A. Chanler, hereby declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged that the party identified in the notice has violated Health and Safety Code § 25249.6 by failing to provide clear and reasonable warnings;
2. I am the attorney for the noticing party;
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 chemical that is the subject of this action;
4. 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 plaintiff’s case can be established and 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. The copy of this Certificate of Merit served on the Attorney General attaches to it factual information sufficient to establish the basis for this certificate, including information identified in Health and 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: October 24, 2014



Clifford A. Chanler

SERVICE LIST

The Honorable Nancy O'Malley
Alameda County District Attorney
1225 Fallon Street, Room 900
Oakland, CA 94612

The Honorable Terese Drabec
Alpine County District Attorney
270 Laramie Street, PO BOX 248
Markleeville, CA 96120

The Honorable Todd Riebe
Amador County District Attorney
708 Court Street
Jackson, CA 95642

The Honorable Michael Ramsey
Butte County District Attorney
25 County Center Drive
Oroville, CA 95965

The Honorable Barbara Yook
Calaveras County District Attorney
891 Mountain Ranch Road
San Andreas, CA 95249

The Honorable John R. Poyner
Colusa County District Attorney
346 Fifth Street
Colusa, CA 95932

The Honorable Mark Peterson
Contra Costa County District Attorney
900 Ward Street
Martinez, CA 94553

The Honorable Jon Alexander
Del Norte County District Attorney
981 H Street
Crescent City, CA 95531

The Honorable Vernon Pierson
El Dorado County District Attorney
515 Main Street
Placerville, CA 95667

The Honorable Elizabeth Egan
Fresno County District Attorney
2220 Tulare Street, #1000
Fresno, CA 93721

The Honorable Robert Maloney
Glenn County District Attorney
P.O. Box 430
Willows, CA 95988

The Honorable Paul Gallegos
Humboldt County District Attorney
825 5th Street
Eureka, CA 95501

The Honorable Gilbert Otero
Imperial County District Attorney
940 West Main Street, Suite 102
El Centro, CA 92243

The Honorable Arthur Maillet
Inyo County District Attorney
P.O. Drawer D
Independence, CA 93526

The Honorable Lisa Green
Kern County District Attorney
1215 Truxtun Avenue
Bakersfield, CA 93301

The Honorable Greg Strickland
Kings County District Attorney
1400 West Lacey Boulevard
Hanford, CA 93230

The Honorable Donald Anderson
Lake County District Attorney
255 North Forbes Street
Lakeport, CA 95453

The Honorable Robert Burns
Lassen County District Attorney
220 S. Lassen Street, Ste. 8
Susanville, CA 96130

The Honorable Steve Cooley
Los Angeles County District Attorney
210 West Temple Street, Suite 18000
Los Angeles, CA 90012

The Honorable Michael Keitz
Madera County District Attorney
209 West Yosemite Avenue
Madera, CA 93637

The Honorable Edward Berberian
Marin County District Attorney
3501 Civic Center Drive, Room 130
San Rafael, CA 94903

The Honorable Robert Brown
Mariposa County District Attorney
5101 Jones Street, P.O. Box 730
Mariposa, CA 95338

The Honorable C. David Eyster
Mendocino County District Attorney
P.O. Box 1000
Ukiah, CA 95482

The Honorable Larry Morse II
Merced County District Attorney
550 W. Main Street
Merced, CA 95340

The Honorable Gary Woolverton
Modoc County District Attorney
204 S. Court Street, Room 202
Alturas, CA 96101

The Honorable George Booth
Mono County District Attorney
P.O. Box 617
Bridgeport, CA 93517

The Honorable Dean Flippo
Monterey County District Attorney
P.O. Box 1131
Salinas, CA 93902

The Honorable Gary Lieberstein
Napa County District Attorney
P.O. Box 720
Napa, CA 94559

The Honorable Clifford Newell
Nevada County District Attorney
201 Commercial Street
Nevada City, CA 95959

The Honorable Tony Rackauckas
Orange County District Attorney
401 Civic Center Drive West
Santa Ana, CA 92701

The Honorable Ronald Owens
Placer County District Attorney
10810 Justice Center Drive, Suite 240
Roseville, CA 95678

The Honorable David Hollister
Plumas County District Attorney
520 Main Street, Room 404
Quincy, CA 95971

The Honorable Paul Zellerbach
Riverside County District Attorney
3960 Orange Street
Riverside, CA 92501

The Honorable Jan Scully
Sacramento County District Attorney
901 G Street
Sacramento, CA 95814

The Honorable Candice Hooper
San Benito County District Attorney
419 4th Street, Second Floor
Hollister, CA 95203

The Honorable Michael Ramos
San Bernardino County District Attorney
316 N. Mountain View Avenue
San Bernardino, CA 92415

The Honorable Bonnie Dumanis
San Diego County District Attorney
330 W. Broadway Street
San Diego, CA 92101

The Honorable George Gascon
San Diego County District Attorney
850 Bryant Street, Room 322
San Francisco, CA 94103

The Honorable James Willett
San Joaquin County District Attorney
P.O. Box 990
Stockton, CA 95201

The Honorable Gerald Shea
San Luis Obispo County District Attorney
1035 Palm Street
San Luis Obispo, CA 93408

The Honorable Stephen Wagstaffe
San Mateo County District Attorney
400 County Center, Third Floor
Redwood City, CA 94063

The Honorable Joyce Dudley
Santa Barbara County District Attorney
1112 Santa Barbara Street
Santa Barbara, CA 93101

The Honorable Jeffrey Rosen
Santa Clara County District Attorney
70 West Hedding Street, West Wing
San Jose, CA 95110

The Honorable Bob Lee
Santa Cruz County District Attorney
701 Ocean Street, Room 200
Santa Cruz, CA 95060

The Honorable Stephen Carlton
Shasta County District Attorney
1355 West Street
Redding, CA 96001

The Honorable Lawrence Allen
Sierra County District Attorney
100 Courthouse Square, Second Floor
Downieville, CA 95936

The Honorable James Kirk Andrus
Siskiyou County District Attorney
P.O. Box 986
Yreka, CA 96097

The Honorable Donald A. du Bain
Solano County District Attorney
675 Texas Street, Suite 4500
Fairfield, CA 94533

The Honorable Jill Ravitch
Sonoma County District Attorney
600 Administration Drive, Room 212J
Santa Rosa, CA 95403

The Honorable Birgit Fladager
Stanislaus County District Attorney
832 12th Street, Suite 300
Modesto, CA 95354

The Honorable Carl Adams
Sutter County District Attorney
446 Second Street
Yuba City, CA 95991

The Honorable Gregg Cohen
Tehama County District Attorney
444 Oak Street, Room L
Red Bluff, CA 96080

The Honorable Michael B. Harper
Trinity County District Attorney
PO Box 310
Weaverville, CA 96093

The Honorable Phillip Cline
Tulare County District Attorney
221 South Mooney Boulevard, Suite 224
Visalia, CA 93291

The Honorable Donald Segerstrom, Jr
Tuolumne County District Attorney
423 North Washington Street
Sonora, CA 95370

The Honorable Gregory Totten
Tulare County District Attorney
800 South Victoria Avenue
Ventura, CA 93009

The Honorable Jeff Reisig
Yuba County District Attorney
301 Second Street
Woodland, CA 95695

The Honorable Patrick McGrath
Yuba County District Attorney
215 Fifth Street
Marysville, CA 95901

The Honorable Mike Feuer
Office of the City Attorney, Los Angeles
800 City Hall East
200 North Main Street
Los Angeles, CA 90012

The Honorable Jan Goldsmith
Office of the City Attorney, San Diego
1200 Third Avenue, Suite 1620
San Diego, CA 92101

The Honorable Eileen M. Teichert
Office of the City Attorney, Sacramento
915 I Street, 4th Floor
Sacramento, CA 95814

The Honorable Dennis J. Herrera
Office of the City Attorney, San Francisco
City Hall, Room 234
San Francisco, CA 94102

The Honorable Richard Doyle
Office of the City Attorney, San Jose
200 East Santa Clara Street
San Jose, CA 95113

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

EXHIBIT B

EXHIBIT B

SUPPLEMENTAL 60-DAY NOTICE OF VIOLATION

SENT IN COMPLIANCE WITH CALIFORNIA HEALTH & SAFETY CODE § 25249.7(d)

DATE: March 13, 2015

TO: Mark DeYoung, President – Alliant Techsystems Operations LLC
Joseph Scartozzi, President – Federal Cartridge Company
California Attorney General’s Office;
District Attorney’s Office for 58 Counties; and
City Attorneys for San Francisco, San Diego, San Jose, Sacramento and Los Angeles

FROM: Laurence Vinocur

I. INTRODUCTION

My name is Laurence Vinocur. I am a citizen of the State of California acting in the interest of the general public. I seek to promote awareness of exposures to toxic chemicals in products sold in California and, if possible, to improve human health by reducing hazardous substances contained in such items. This Notice is provided to the public agencies listed above pursuant to California Health & Safety Code § 25249.6 *et seq.* (“Proposition 65”) and supplements the 60-Day Notice of Violation sent on October 24, 2014. As noted above, notice is also being provided to the alleged violators, Alliant Techsystems Operations LLC and Federal Cartridge Company (the “Violators”). The violations covered by this Notice consist of the product exposures, routes of exposure, and type of harm potentially resulting from exposure to the toxic chemical (“listed chemical”) identified below, as follows:

Product Exposure: See Section VII. Exhibit A
Listed Chemical: Di(2-ethylhexyl)phthalate (“DEHP”)
Routes of Exposure: Ingestion, Dermal
Types of Harm: Birth Defects and Other Reproductive Harm

II. NATURE OF ALLEGED VIOLATION (PRODUCT EXPOSURE)

The specific type of product that is causing consumer and occupational exposures in violation of Proposition 65, and that is covered by this Notice, is listed under “Product Category/Type” in Exhibit A in Section VII below. All products within the category covered by this Notice shall be referred to hereinafter as the “products.” Exposures to the listed chemical from the use of the products have been occurring without the clear and reasonable warning required by Proposition 65, dating as far back as March 13, 2012. Without proper warnings regarding the toxic effects of exposures to the listed chemical resulting from contact with the products, California citizens lack the information necessary to make informed decisions on whether and how to eliminate (or reduce) the risk of exposure to the listed chemical from the reasonably foreseeable use of the products.

California citizens, through the act of buying, acquiring or utilizing the products, are exposed to the listed chemical. Women of childbearing age ingest the listed chemical when they, among other activities, touch the products and transfer the listed chemical from the products to their mouths through hand-to-mouth activities that may continue to occur for a significant period after contact with the products stops. Women of childbearing age are exposed to the listed chemical through direct dermal contact when they, among other activities, handle, touch or otherwise use the products.

III. CONTACT INFORMATION

Please direct all questions concerning this notice to me through my counsel's office at the following address:

Laurence Vinocur
c/o Josh Voorhees
The Chanler Group
Parker Plaza
2560 Ninth Street, Suite 214
Berkeley, CA 94710
Telephone: (510) 848-8880

IV. PROPOSITION 65 INFORMATION

For general information concerning the provisions of Proposition 65, please feel free to contact the Office of Environmental Health Hazard Assessment's ("OEHHA") Proposition 65 Implementation Office at (916) 445-6900. For the Violators' reference, I have attached a copy of "Proposition 65: A Summary" which has been prepared by OEHHA.

V. RESOLUTION OF NOTICED CLAIMS

Based on the allegations set forth in this Notice, I intend to file a citizen enforcement lawsuit against the alleged Violators unless such Violators enter into a binding written agreement to: (1) recall products already sold or undertake best efforts to ensure that the requisite health hazard warnings are provided to those who have received such products; (2) provide clear and reasonable warnings for products sold in the future or reformulate such products to eliminate the DEHP exposures; and (3) pay an appropriate civil penalty based on the factors enumerated in California Health & Safety Code § 25249.7(b). If the alleged Violators are interested in resolving this dispute without resorting to time-consuming and expensive litigation, please feel free to contact my counsel identified in Section III above. It should be noted that neither my counsel nor I can: (1) finalize any settlement until after the 60-day notice period has expired; nor (2) speak for the Attorney General or any district or city attorney who received this Notice. Therefore, while reaching an agreement with me will resolve my claims, such agreement may not satisfy the public prosecutors.

VI. ADDITIONAL NOTICE INFORMATION

Identified below are specific examples of products recently purchased and witnessed as being available for purchase or use in California that are within the category or type of offending product covered by this Notice. Based on publicly available information, the retailers, distributors and/or manufacturers of the examples within the category or type of product are also provided below. I believe and allege that the sale of the offending products also has occurred without the requisite Proposition 65 “clear and reasonable warning” at one or more locations and/or via other means including, but not limited to, transactions made over-the-counter, business-to-business, through the internet and/or via a catalog by the Violators and other retailers and distributors of the manufacturer.

<i>Product*</i>	<i>Retailer(s)</i>	<i>Manufacturer(s)/Distributor(s)</i>
Champion Eyes & Ears Ballistic Eyes & Ears Combo, #40704, UPC #0 76683 40704 7	Cabela's Incorporated (http://www.cabelas.com)	Alliant Techsystems Operations LLC; Federal Cartridge Company
Champion Eyes & Ears Electronic Earmuffs, #40974, UPC #0 76683 40974 4	Wal-Mart Stores, Inc. Contra Costa County, Northern California	Alliant Techsystems Operations LLC; Federal Cartridge Company

VII. EXHIBIT A

<i>Product Category/Type</i>	<i>Such As*</i>	<i>Toxins</i>
Hearing Protection with Vinyl/PVC Components	Champion Eyes & Ears Ballistic Eyes & Ears Combo, #40704, UPC #0 76683 40704 7 Champion Eyes & Ears Electronic Earmuffs, #40974, UPC #0 76683 40974 4	Di(2-ethylhexyl)phthalate

*The specifically identified examples of the type of product that is subject to this Notice are for the recipients' benefit to assist in their investigation of, among other things, the magnitude of potential exposures to the listed chemical from other items within the product category/type listed in Exhibit A. It is important to note that these examples are not meant to be an exhaustive or comprehensive identification of each specific offending product of the type listed under “Product Category/Type” in Exhibit A. Further, it is this citizen's position that the alleged Violators are obligated to continue to conduct in good faith an investigation into other specific products within the type or category described above that may have been manufactured, distributed, sold, shipped, stored (or otherwise within the notice recipients' custody or control) during the relevant period so as to ensure that the requisite toxic warnings were and are provided to California citizens prior to purchase.

PROOF OF SERVICE

I, the undersigned, declare under penalty of perjury:

I am over the age of 18 years, and not a party to the within action; my business address is Parker Plaza, 2560 Ninth Street, Suite 214, Berkeley, CA 94710.

On March 13, 2015, I served the following documents:

SUPPLEMENTAL 60-DAY NOTICE OF VIOLATION SENT IN COMPLIANCE WITH HEALTH & SAFETY CODE § 25249.7(d);

PROPOSITION 65: A SUMMARY;

CERTIFICATE OF MERIT; AND

CERTIFICATE OF MERIT ATTACHMENTS (SERVED ONLY ON THE ATTORNEY GENERAL)

on the entities listed below via First Class Certified Mail through the United States Postal Service by placing a true and correct copy in a sealed envelope, addressed to the entities listed below and providing each envelope to a United States Postal Service Representative:

Mark DeYoung, President
Alliant Techsystems Operations LLC
7480 Flying Cloud Drive
Eden Prairie, MN 55344

Mark DeYoung, President
Alliant Techsystems Operations LLC
P.O. Box 41730
Minneapolis, MN 55441

Joseph Scartozzi, President
Federal Cartridge Company
900 Ehlen Drive
Anoka, MN 55303

as well as by providing copies of the above documents electronically uploaded to the public enforcers according to directions from their respective offices, and/or by placing a true and correct copy in a sealed envelope, addressed to each party listed below, and served as follows:

<i>Electronically Uploaded to the Attorney General's website:</i>	The Attorney General of the State of California;
<i>By placing each envelope in a United States Postal Service mailbox, postage prepaid:</i>	The District Attorney for Each of the 58 counties in California; and The City Attorney for Los Angeles, San Diego, San Jose, San Francisco and Sacramento

A list of addresses for each of these recipients is attached.

Executed on March 13, 2015, at Berkeley, California.



Caroline Pak

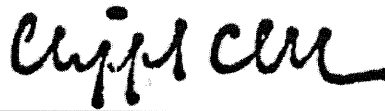
CERTIFICATE OF MERIT

Health and Safety Code Section 25249.7(d)

I, Clifford A. Chanler, hereby declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged that the parties identified in the notice have violated Health and Safety Code § 25249.6 by failing to provide clear and reasonable warnings;
2. I am the attorney for the noticing party;
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 chemical that is the subject of this action;
4. 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 plaintiff’s case can be established and the information did not prove that the alleged Violators will be able to establish any of the affirmative defenses set forth in the statute;
5. The copy of this Certificate of Merit served on the Attorney General attaches to it factual information sufficient to establish the basis for this certificate, including information identified in Health and 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: March 13, 2015



Clifford A. Chanler