KLAMATH ENVIRONMENTAL LAW CENTER
WILLIAM VERICK (NO. 140972)
FREDRIC EVENSON (NO. 198059)
424 First Street
Eureka, CA 95501
Telephone: 707/268-8900
Facsimile: 707/268-8901
Email: wverick@igc.org, ecorights@earthlink.net

DAVID H. WILLIAMS, CSB #144479
BRIAN ACREE, CSB #202505
370 Grand Avenue, Suite 5
Oakland, CA 94610
Telephone: (510) 271-0826
Facsimile: (510) 271-0829
Email: davidhwilliams@earthlink.net
brianacree@earthlink.net

Attorneys for Plaintiff MATEEL ENVIRONMENTAL JUSTICE FOUNDATION

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN FRANCISCO

UNLIMITED JURISDICTION

MATEEL ENVIRONMENTAL JUSTIC FOUNDATION, Plaintiff, v. COST PLUS, INC., Defendant.	Case No. CGC-07-461734 **CONSENT JUDGMENT** ~~[PROPOSED]~~

1. INTRODUCTION

1.1 On or about August 7, 2006, plaintiff Mateel Environmental Justice Foundation ("MEJF"), provided a 60-day Notice of Violation to the California Attorney General, the District Attorneys of each county in California, the City Attorneys of every California city with a population greater than 750,000, and defendant Cost Plus, Inc., ("Cost Plus"), alleging that Cost

Plus, through its sales in California of beverage dispensers with brass spigots("Beverage Dispensers") that contain lead, was in violation of Proposition 65 by knowingly and intentionally exposing persons to lead, a product known to the State of California to cause cancer and/or birth defects or other reproductive harm, without first providing a clear and reasonable warning ("Beverage Dispenser Notice").

1.2 On or about July 27, 2006, MEJF provided a 60-day Notice of Violation to the California Attorney General, the District Attorneys of each county in California, the City Attorneys of every California city with a population greater than 750,000, and Cost Plus, alleging that Cost Plus, through its sales in California of brass napkin rings ("Brass Napkin Rings") that contain lead, was in violation of Proposition 65 by knowingly and intentionally exposing persons to lead, a product known to the State of California to cause cancer and/or birth defects or other reproductive harm, without first providing a clear and reasonable warning ("Brass Napkin Rings Notice").

1.3 On or about March 27, 2007, MEJF, acting in the public interest pursuant to Health and Safety Code § 25249.7(d), filed a Complaint for Civil Penalties and Injunctive Relief in San Francisco County Superior Court, Case No. 07-461734 (the "Beverage Dispenser Complaint") against Cost Plus based on the allegations contained in the Beverage Dispenser Notice. MEJF alleges in the Beverage Dispenser Complaint that Cost Plus is a business that employs more than ten persons and manufactures, distributes and/or markets Beverage Dispensers made with brass valves or spigots that contain lead within the State of California. Pursuant to Proposition 65, lead and lead compounds are chemicals known to the State of California to cause cancer and reproductive toxicity. Products containing lead and/or lead compounds that are sold or distributed in the State of California may be, under specified circumstances, subject to the Proposition 65 warning requirement set forth in Health and Safety Code section 25249.6. MEJF further alleges that Beverage Dispensers that are manufactured, distributed, sold and/or marketed by Cost Plus for use in California, require a warning under Proposition 65. Cost Plus ceased the sale of Beverage Dispensers at issue in this litigation in July 2007.

1.4 On or about March 22, 2007, MEJF, acting in the public interest pursuant to Health and Safety Code § 25249.7(d), filed a Complaint for Civil Penalties and Injunctive Relief in San Francisco County Superior Court, Case No. 07-461598 against Cost Plus based on the allegations contained in the Brass Napkin Rings Notice ("Brass Napkin Rings Complaint" and collectively with the Beverage Dispenser Complaint, the "Complaints"). MEJF alleges in the Brass Napkin Rings Complaint that Cost Plus is a business that employs more than ten persons and manufactures, distributes and/or markets within the State of California Brass Napkin Rings that allegedly contain lead and/or lead compounds. MEJF further alleges that Brass Napkin Rings that are manufactured, distributed, sold and/or marketed by Cost Plus for use in California, require a warning under Proposition 65.

1.5 On or about March 12, 2008, MEJF provided a 60-day Notice of Violation to the California Attorney General, the District Attorneys of each county in California, the City Attorneys of every California city with a population greater than 750,000, and Cost Plus, alleging that Cost Plus, through its sales in California of products that are made of or incorporate parts made of brass and/or bronze ("Brass Decorative Products") that contain lead, was in violation of Proposition 65 by knowingly and intentionally exposing persons to lead, a product known to the State of California to cause cancer and/or birth defects or other reproductive harm, without first providing a clear and reasonable warning ("Brass Decorative Products Notice").

1.6 On or about March 12, 2008, MEJF provided a 60-day Notice of Violation to the California Attorney General, the District Attorneys of each county in California, the City Attorneys of every California city with a population greater than 750,000, and Cost Plus, alleging that Cost Plus, through its sales in California of stained glass lamps and/or candle holders ("Stained Glass Products") that contain lead, was in violation of Proposition 65 by knowingly and intentionally exposing persons to lead, a product known to the State of California to cause cancer and/or birth defects or other reproductive harm, without first providing a clear and reasonable warning ("Stained Glass Products Notice").

1.7 For purposes of this Consent Judgment only, the Parties to this Consent Judgment, MEJF and Cost Plus, stipulate that, upon the entry of an order approving the entry of this Consent

Judgment, and upon the expiration of the 60-day period following the issuance of the Brass Decorative Products Notice and the Stained Glass Products Notice, the Beverage Dispenser Complaint shall be deemed amended to include the allegations in the Brass Decorative Products Notice and the Stained Glass Products Notice.

1.8 For purposes of this Consent Judgment only, the Parties stipulate that this Court has jurisdiction over the allegations of violations contained in the Notices and Complaints and personal jurisdiction over Cost Plus as to the acts alleged in the Complaints, that venue is proper in the County of San Francisco and that this Court has jurisdiction to enter this Consent Judgment as a full and final settlement and resolution of the allegations contained in the Complaints and of all claims which were or could have been raised based on the facts alleged therein or arising therefrom.

1.9 The Parties enter into this Consent Judgment pursuant to a full and final settlement of disputed claims between the parties for the purpose of avoiding prolonged litigation. This Consent Judgment and compliance with it shall not constitute an admission with respect to any allegation made in the Notices or the Complaints, each and every allegation of which Cost Plus denies, nor may this Consent Judgment or compliance with it be used as an admission or evidence of any fact, wrongdoing, misconduct, culpability or liability on the part of Cost Plus.

1.10 The term "Effective Date" means the date of entry of this Consent Judgment.

1.11 The term "Covered Products" means Beverage Dispensers, Brass Decorative Products, Brass Napkin Rings, and Stained Glass Products.

2. BEVERAGE DISPENSERS WITH BRASS SPIGOTS

2.1 After the Effective Date, Cost Plus shall not sell, or offer for sale, Beverage Dispensers with leaded brass in California.

2.2 MEJF acknowledges that Cost Plus initiated a voluntary recall of its Beverage Dispensers in July of 2007 in cooperation with the Food and Drug Administration. The recall program provides that any customer who purchased a Beverage Dispenser from Cost Plus may return the item for a full refund, and requires a recall notice, attached as Exhibit A, to be posted at the locations in the store where the items were sold, and in the employee break area.

2.3 In order to increase the effectiveness of the recall, and to provide warnings to consumers who may have purchased Beverage Dispensers from Cost Plus, Cost Plus shall, until July 31, 2008, provide at each cash register or check-out stand of each Cost Plus retail location in California, a notice that indicates that the Beverage Dispensers at issue could expose people who use the dispensers to lead, a chemical known to the State of California to cause birth defects and other reproductive harm, that consumers should cease using the products, and that Cost Plus will either exchange the products or provide a refund or credit of the purchase price. The notice currently in use by Cost Plus may be used to satisfy this provision.

2.4 The notices shall be printed on signs no smaller than 4 x 6 inches, placed such that they are reasonably likely to be seen and understood by their intended readers, clearly identify the Beverage Dispensers at issue with photographs or other suitable depictions, and provide clear instructions for the return of the products.

3. BRASS DECORATIVE PRODUCTS, BRASS NAPKIN RINGS, AND STAINED GLASS PRODUCTS

3.1 Brass Decorative Products, Brass Napkin Rings, and Stained Glass Products (collectively "Decorative Products") that are shipped after the Effective Date to Cost Plus for sale in California in which solder or a component made from brass comes into contact with the user, shall either comply with the reformulation standards of Section 3.3, or bear a warning as provided in Section 3.4.

3.2 For purposes of this Section 3, solder or a brass component in a Decorative Product does not come into contact with the user if:

3.2.1 The solder or brass component is not accessible to the user during normal or intended use of the product, or

3.2.2 The solder or brass component is not handled during normal or intended use of the product, such as solder or brass components that may be handled when a product is assembled or installed, but not thereafter.

3.3 Decorative Products shall not require a warning if the requirements of Sections 3.3.1, or 3.3.2 or 3.3.3 as applicable, are met.

3.3.1 A randomly selected representative sample of the Decorative Product shall be tested according to the NIOSH 9100 protocol, attached hereto as Exhibit B. For purposes of the test, the entire brass and/or solder surface of the Decorative Product that is accessible to the user during normal or intended use of the product shall be wiped according to the test protocol. No warning shall be required for Decorative Products if the results of the NIOSH 9100 protocol are less than 1 µg of lead for each 20 square inches of surface area tested.

3.3.2 A randomly selected representative sample of the brass used in the Decorative Product has lead content by weight of less than 0.06% (600 parts per million "600 ppm"), using a test method of sufficient sensitivity to establish a limit of quantification (as distinguished from detection) of less than 600 ppm;

3.3.3 A representative sample of the solder used in the product has lead content by weight of less than 600 ppm, using a test method of sufficient sensitivity to establish a limit of quantification (as distinguished from detection) of less than 600 ppm.

3.3.4 Cost Plus may comply with the reformulation requirements of this Section by relying on information obtained from the manufacturers and/or suppliers of Decorative Products, and/or the suppliers of the materials utilized in their manufacture, so long as such reliance is in good faith.

3.4 Cost Plus shall provide a warning through product labeling or point-of-sale warning sign for each Decorative Product that does not comply with one or more of the reformulation standards of Section 3.3. The labeling or point-of-sale warning sign shall contain one of the following warning statements:

> "**WARNING**: This product contains lead, a chemical known to the State of California to cause birth defects and other reproductive harm. ***Wash hands after handling***" or
>
> "**WARNING**: Handling the brass parts/solder of this product will expose you to lead, a chemical known to the State of California to cause birth defects and other reproductive harm. ***Wash hands after handling.***"

The word "WARNING" shall be in bold text, and the phrase "Wash hands after handling" shall be in bold italic text.

3.5 If product labeling is used, the warning statements described in Section 3.4 shall be affixed to or printed on the Decorative Product itself or to the Decorative Product's packaging or labeling.

3.6 If point-of-sale warning signs are used, a single sign shall be posted at each location where Decorative Products are displayed. Warning signs posted at the point of display may be free-standing, placed on the wall, hung, or displayed in any manner, so long as they are reasonably likely to be seen by customers at or before the time of purchase.

4. ENFORCEMENT OF JUDGMENT

4.1 The terms of this Consent Judgment shall be enforced exclusively by the Parties hereto. Subject to the requirements of Section 4.2, the Parties may, by noticed motion or order to show cause before the Superior Court of San Francisco County, giving the notice required by law, enforce the terms and conditions contained herein.

4.2 **Notice and Cure/Meet and Confer.** At any time more than 30 days after the Effective Date, MEJF may provide Cost Plus with a Notice of Violation, alleging that a Covered Product sold by Cost Plus in California is alleged to contain lead in excess of an applicable reformulation standard in this Consent Judgment and/or does not comply with the applicable warning requirement in this Consent Judgment ("Noncompliant Covered Product").

4.2.1 A Notice of Violation may be based on "swipe" testing which Mateel believes establishes that lead is present on the surface of the Noncompliant Covered Product. The Notice of Violation shall identify the Noncompliant Covered Product by name, description, SKU, UPC, and any other identifying information available to Mateel. MEJF shall provide with the Notice of Violation copies of all available purchase receipts, product tags, and labels, picture(s) of the Noncompliant Covered Product, and any test results showing lead level in excess of the applicable reformulation standard, if any.

4.2.2 Within 15 business days of receiving such a request, Defendant shall provide notice to MEJF of its election to contest or not to contest the Notice of Violation. If Cost

Plus elects not to contest the Notice of Violation, it shall, within 5 business days after providing its notice of election, either (a) stop sale of the Noncompliant Covered Product in California, or (b) provide with the Noncompliant Covered Product a warning that complies with Section 3.4 above. If Cost Plus complies with this Section 4.2.2, it shall be deemed to be in compliance with this Consent Judgment, there shall be no further actions taken related to the Noncompliant Covered Product and the Notice of Violation, and Cost Plus shall not be liable for any remedies, including injunctive relief, penalties, sanctions, monetary award, attorney's fees, or costs associated with the Noncompliant Covered Product or the Notice of Violation.

4.2.3 In the event that Cost Plus wishes to contest the allegations contained in any Notice of Violation, Cost Plus may provide with its notice of election any evidence to MEJF that in Cost Plus's judgment supports its position. In the event that, upon a good faith review of the evidence, MEJF agrees with Cost Plus's position, it shall notify Cost Plus and no further action shall be taken. If MEJF disagrees with Cost Plus's position, it shall, within 30 days, notify Cost Plus of such and provide Cost Plus, in writing, with the reasons for its disagreement. Thereafter, the Parties shall meet and confer to attempt to resolve their dispute on mutually acceptable terms.

4.2.4 If either (a) there is no resolution of the meet and confer process required under Section 4.2.3 within 45 days, (b) Cost Plus fails to provide written notice of its election to correct or contest the violations identified in a Notice of Violation within 15 days, or (c) Cost Plus fails to correct any uncontested violations identified in a Notice of Violation within 30 days, MEJF may seek to enforce the terms and conditions contained in this Consent Judgment in the Superior Court of the State of California, County of San Francisco, or may initiate an enforcement action for new violations pursuant to Health and Safety Code § 25249.7(d).

4.3 As to any matters not covered by Section 4.2, a Party may enforce any of the terms and conditions of this Consent Judgment only after that Party first provides 30-days notice to the Party allegedly failing to comply with the terms and conditions of this Consent Judgment and attempts to resolve such Party's failure to comply in an open and good faith manner. In any such

proceeding, the Party may seek whatever fines, costs, penalties or remedies as may be provided by law for any violation of Proposition 65 or this Consent Judgment.

5. MONETARY RELIEF

5.1 Cost Plus shall pay a total of $275,000 in full and complete settlement of all monetary claims by MEJF, as follows:

5.1.1 $200,000 shall be paid by Cost Plus by May 31, 2008, or within five business days of the Effective Date, whichever is later in time.

5.1.2 $75,000 shall be paid by Cost Plus by December 31, 2008.

5.1.3 The payments shall be sent to the attention of William Verick, Klamath Environmental Law Center, 424 First Street, Eureka, California 95501.

5.2 The payments shall be made to the Klamath Environmental Law Center ("KELC"), which shall subsequently and within a commercially reasonable time be allocated by KELC as follows:

5.2.1 The sum of $15,000 shall be paid in civil penalties, payable as follows: 75% of the penalty shall be made payable to the Office of Environmental Health Hazard Assessment, with the remaining 25% payable to Mateel Environmental Justice Foundation in accordance with California Health and Safety Code Section 25192.

5.2.2 The sum of $60,000 shall be paid as a charitable contribution as follows: $20,000 to Ecological Rights Foundation, $20,000 to Californians Against Toxics, and $20,000 to KPFA Radio. These payments shall be used for reducing exposures to toxic chemicals and other pollutants, and for increasing consumer, worker and community awareness of health hazards posed by lead and other toxic chemicals. The Parties agree and acknowledge that the charitable contributions made pursuant to this Section shall not be construed as a credit against the personal claims of absent third parties for restitution against the defendant.

5.2.3 The sum of $200,000 shall be paid to KELC as reimbursement for costs and attorney's fees incurred by KELC on behalf of Plaintiff in investigating and litigating the Notices and Complaints and negotiating this Consent Judgment.

6. MATTERS COVERED BY THIS CONSENT JUDGMENT

6.1 As to Covered Products, this Consent Judgment is a final and binding resolution between MEJF, acting on behalf of itself and (as to those matters raised in the Beverage Dispenser Notice, the Brass Napkin Rings Notice, the Brass Decorative Products Notice, and the Stained Glass Products Notice, collectively "the Notices") the general public, and Cost Plus and its parents, subsidiaries, and affiliates ("the Cost Plus Entities"), and all of their suppliers, customers, distributors, wholesalers, retailers, or any other person in the course of doing business, and the successors and assigns of any of them, who may use, maintain, distribute or sell Covered Products ("Released Entities") of: (i) any violation of Proposition 65 (including but not limited to the claims made in the Complaints and the Notices); and (ii) any other statutory or common law claim to the fullest extent that any of the foregoing described in (i) or (ii) were or could have been asserted by any person or entity against the Cost Plus Entities or the Released Entities, based on exposure of persons to lead from Covered Products or failure to provide a clear and reasonable warning of exposure to such individuals; and (iii) as to alleged exposures to lead from Covered Products, any other claim based in whole or in part on the facts alleged in the Complaints or the Notices, whether based on actions committed by the Released Entities or others. As to alleged exposures to lead from Covered Products, compliance with the terms of this Consent Judgment resolves any issue, now and in the future, concerning compliance by the Cost Plus Entities and the Released Entities with the requirements of Proposition 65.

7. COMPREHENSIVE AND GLOBAL RELEASE

7.1 As to Covered Products sold by the Cost Plus Entities, MEJF, by and on behalf of itself and its respective agents, attorneys, affiliates, successors and assigns, waives any and all rights to institute any form of legal action, and releases all claims against the Cost Plus Entities and the Released Entities, whether, under Proposition 65 or otherwise, arising out of or resulting from, or related directly or indirectly to, in whole or in part, the Covered Products, including but not limited to any exposure to, or failure to warn with respect to, lead in Covered Products that was or could have been alleged by Plaintiff against any of the Cost Plus Entities or the Released

Entities based on the facts alleged in the Complaints or the Notices, or facts similar to those alleged (referred to collectively in this Section as the "Claims").

7.2 In furtherance of the Parties' intention that this Consent Judgment shall be effective as a full and final accord, satisfaction, and release as to the Cost Plus Entities and the Released Entities of and from any and all matters released hereunder, MEJF acknowledges familiarity and understanding of California Civil Code Section 1542, which provides as follows:

> A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.

To the extent that Section 1542 or any similar law or statute may otherwise apply to this Consent Judgment, MEJF hereby waives and relinquishes as to all matters released hereunder all rights and benefits it has, or may have, under Section 1542 or the laws of any other jurisdiction to the same or similar effect. MEJF further acknowledges that, subsequent to the execution of this Consent Judgment, it may discover Claims that were unsuspected at the time this Consent Judgment was executed, and which might have materially affected its decision to execute this Consent Judgment, but nevertheless MEJF releases the Cost Plus Entities and the Released Entities from any and all such Claims, whether known or unknown, suspected or unsuspected, at the time of the execution of this Consent Judgment.

8. APPLICATION OF JUDGMENT

8.1 The obligations of this Consent Judgment shall apply to and be binding upon all plaintiffs acting in the public interest pursuant to Health and Safety Code § 25249.7, and Cost Plus, and its successors or assigns. The terms contained in this Consent Judgment were submitted to the California Attorney General's office prior to the entry of this Consent Judgment by the Court.

8.2 This Consent Judgment shall have no effect on Covered Products sold or offered for sale by Cost Plus outside the State of California.

9. MODIFICATION OF JUDGMENT

9.1 This Consent Judgment may be modified only upon written agreement of the parties and upon entry of a modified Consent Judgment by the Court thereon or upon motion of any party as provided by law and upon entry of a modified Consent Judgment by the Court.

9.2 If the Attorney General of the State of California or Plaintiff permit any reformulation standard for lead in one or more Covered Products by way of settlement or compromise with any other person in the course of doing business, or any other entity, or if a reformulation standard for lead in one or more Covered Products is incorporated by way of final judgment as to any other person in the course of doing business, or any other entity, then Cost Plus shall be entitled to apply any such reformulation standard to Covered Products in lieu of the reformulation standards in this Consent Judgment. In the event that Cost Plus elects to use such alternative reformulation standard, it shall provide notice to MEJF.

9.3 Cost Plus shall be entitled to a modification to this Consent Judgment to establish a reformulation standard for lead content in one or more Covered Products consistent with any "safe use determination" regarding lead content in one or more Covered Products issued by the California Environmental Protection Agency Office of Environmental Health Hazard Assessment, pursuant to 22 Cal. Code Regs. § 12204 or any successor regulation.

10. COURT APPROVAL

10.1 If the Court does not approve this Consent Judgment, it shall be of no force or effect, and cannot be used in any proceeding for any purpose.

10.2 Upon the entry of a final order approving this Consent Judgment, MEJF shall file a dismissal with prejudice of the Brass Napkin Rings Complaint.

11. RETENTION OF JURISDICTION

11.1 This Court shall retain jurisdiction of this matter to implement this Consent Judgment.

12. GOVERNING LAW

12.1 The laws of the State of California shall govern the validity, construction and performance of this Consent Judgment.

13. NOTICES

13.1 When any Party is entitled to receive any notice under this Consent Judgment, the notice or report shall be sent by U.S. mail or overnight courier service to the following persons :

If to MEJF:

William Verick, Esq.
Klamath Environmental Law Center
424 First Street
Eureka, CA 95501

If to Cost Plus:

Jane Baughman
EVP, Chief Financial Officer
Cost Plus, Inc.
200 4th Street
Oakland, CA 94607

13.2 Any Party may modify the person and address to whom notice is to be sent by sending each other Party notice in accordance with this Section.

14. AUTHORITY TO STIPULATE

14.1 Each signatory to this Consent Judgment certifies that he or she is fully authorized by the party he or she represents to enter into this Consent Judgment and to execute it on behalf of the party represented and legally to bind that party.

15. ENTIRE AGREEMENT

15.1 This Consent Judgment contains the sole and entire, agreement and understanding of the parties with respect to the entire subject matter hereof, and any and all prior discussions, negotiations, commitments and understandings related hereto. No representations, oral or otherwise, express or implied, other than those contained herein have been made by any party hereto. No other agreements not specifically referred to herein, oral or otherwise, shall be deemed to exist or to bind any of the parties.

16. EXECUTION IN COUNTERPARTS

16.1 This Consent Judgment may be executed in counterparts and/or by facsimile or portable document format (pdf), which taken together shall be deemed to constitute one original document.

IT IS SO STIPULATED:

DATED: 7-11-08

MATEEL ENVIRONMENTAL JUSTICE FOUNDATION

By: _____
WILLIAM VERICK

DIRECTOR, MATEEL ENVIRONMENTAL JUSTICE FOUNDATION

DATED: 6/27/08

COST PLUS, INC.

By: _____
JANE BAUGHMAN

EVP, CHIEF FINANCIAL OFFICER
COST PLUS, INC.

IT IS SO ORDERED, ADJUDGED AND DECREED:

Date: AUG 29 2008

PATRICK J. MAHONEY
JUDGE OF THE SUPERIOR COURT

Exhibit A

SAFETY RECALL

Red/Blue/Green/Yellow Speckleware Beverage Containers and Glass Water Tank Retro w/Spout

SKU 370549

SKU 391163

Not Pictured – **Green** Speckleware Beverage Container

SKU 378321

Not Pictured – **Yellow** Speckleware Beverage Container

SKU 378322

SKU 378251

The metal spigot can leach lead into beverages stored in these containers.

According to the FDA, lead is very toxic and dangerous to humans, especially children, women of childbearing age, pregnant women and their unborn children. Although people with lead in their blood often do not exhibit the symptoms of lead toxicity, such symptoms include the following: stomach aches, colic, nausea, vomiting, abnormal irritability, and insomnia. Lead can also permanently damage the central nervous system, resulting in learning difficulties in school children as well as cause other long-term health problems.

Call Cost Plus Inc. for additional information at

1-877-967-5362
7:00 am to 12:00 am EDT

Further details are located at www.worldmarket.com

Customers who have purchased these beverage containers are urged to return it to any Cost Plus World Market store for a full refund.

Post Until July 31, 2008

Exhibit B

LEAD in Surface Wipe Samples 9100

Pb MW: 207.19 CAS: 7439-92-1 RTECS: OF7525000

METHOD: 9100, Issue 1 **EVALUATION: PARTIAL** **ISSUE 1: 15 August 1994**

PURPOSE: Determination of surface contamination by lead and its compounds.

LIMIT OF DETECTION: **2 µg Pb** per sample (0.02 µg/cm ^{2} for 100-cm ^{2} area) by **flame AAS** or **ICP**; **0.1 µg Pb** per sample (0.001 µg/cm ^{2} for 100-cm ^{2} area) by **graphite furnace AAS**.

FIELD EQUIPMENT:

1. Bags, plastic, sealable (e.g., with attached wire, tape or "zip"-type seal).
2. Sample pads, 2" x 2", sterile cotton gauze (Curity™, Johnson & Johnson™, or equivalent), or ashless quantitative filter paper.
   NOTE: Wash'n Dri™ wipes may also be used. Other wipes may not ash properly, or may have a significant lead blank value.
3. Gloves, latex, disposable.
4. Template, plastic, 10 cm x 10 cm, or other standard size.
5. Water, distilled, in plastic squeeze bottle.

SAMPLING:

1. Using a new pair of gloves, remove a gauze pad from its protective package. Moisten the gauze pad with approximately 1 to 2 mL of distilled water.
   NOTE 1: Apply no more distilled water than that necessary to moisten approximately the central 80% of the area of the gauze pad. Excess distilled water may cause sample loss due to dripping from the gauze pad.
   NOTE 2: If using the premoistened Wash'n Dri™, omit the distilled water.
2. Place the template over the area to be sampled. Wipe the surface to be sampled with firm pressure, using 3 to 4 vertical S-strokes. Fold the exposed side of the pad in and wipe the area with 3 to 4 horizontal S-strokes. Fold the pad once more and wipe the area with 3 to 4 vertical S-strokes.
3. Fold the pad, exposed side in, and place it in a new plastic bag. Seal and label the bag clearly. Discard the gloves.
4. Clean the template in preparation for the next wipe sample .
5. Include two blank pads (moistened and placed in bags) with each sample set.

SAMPLE PREP: Use the procedure of NIOSH Method 7105, including final sample dilution to 10 mL.
NOTE: Additional portions of nitric acid may be needed for complete digestion of the sample, including the pad. Include appropriate media and reagent blanks.

MEASUREMENT: Screening of all samples by flame AAS or ICP, followed by graphite furnace AAS for those samples giving "Not Detected" is an efficient scheme. Use the procedures of NIOSH Methods 7082 (Lead by flame AAS), 7300 (Elements by ICP), 7105 (Lead by graphite furnace AAS), or other appropriate methods.

METHOD WRITTEN

WRITTEN BY: Peter M. Eller, Ph.D., QASA/DPSE

WILLIAM VERICK, CSB #140972
FREDRIC EVENSON, CSB #198059
KLAMATH ENVIRONMENTAL LAW CENTER
424 First Street
Eureka, CA 95501
Telephone: (707) 268-8900
E-mail: wverick@igc.org

DAVID H. WILLIAMS, CSB #144479
BRIAN ACREE, CSB #202505
370 Grand Avenue, Suite 5
Oakland, CA 94610
Telephone: (510) 271-0826
Facsimile: (510) 271-0829
E-mail: dhwill7@gmail.com

Attorneys for Plaintiff
MATEEL ENVIRONMENTAL JUSTICE FOUNDATION

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN FRANCISCO

MATEEL ENVIRONMENTAL JUSTICE FOUNDATION,	CASE NO. 461734
Plaintiff,	~~[PROPOSED]~~ ORDER APPROVING CONSENT JUDGMENT
vs.	
COST PLUS, INC,	Date: August 29, 2008 Time: 9:30 a.m.
Defendant.	Dept. No.: 302

Plaintiff's motion for approval of settlement and entry of Consent Judgment was heard on noticed motion on August 29, 2008 The court finds that:

1. The warnings and reformulation the Consent Judgment requires comply with the requirements of Proposition 65.

2. The payments in lieu of civil penalties specified in the Consent Judgment are reasonable and conform to the criteria of Health & Safety Code § 25249.7(b)(2).

3. The attorneys fees awarded under the Consent Judgment are reasonable as are the rates awarded the attorneys.

Based on these findings, the settlement and the Consent Judgment are approved.

IT IS SO ORDERED.

Dated: AUG 29 2008

PATRICK J. MAHONEY

Judge of the Superior Court