

## NOTICE OF VIOLATION

### California Safe Drinking Water and Toxic Enforcement Act

Re: Di (2-ethylhexyl) Phthalate (DEHP) and Di-n-Butyl Phthalate (DBP)  
in Headphone Cables

October 15, 2007

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

- For general information regarding the California Safe Drinking Water and Toxic Enforcement Act, see the attached summary provided by the California EPA (copies not provided to public enforcement agencies).
- This Notice of Violation is provided by the Center for Environmental Health ("CEH"), 528 61<sup>st</sup> Street, Suite A, Oakland, CA 94609, (510) 594-9864. CEH is a nonprofit corporation dedicated to protecting the environment, improving human health and supporting environmentally sound practices. Michael Green is the Executive Director of and a responsible individual within CEH.

#### Description of Violation:

- The name and address of the violator is Apple, Inc., One Infinite Loop, Cupertino, CA 95014.
- The violations have been occurring since at least October 15, 2004 and are continuing to this day.
- This Notice of Violation covers the "warning provision" of Proposition 65, which is found at California Health and Safety Code Section 25249.6.
- The names of the listed chemicals involved in these violations are: (1) Di (2-ethylhexyl) Phthalate ("DEHP"), which is also known as Bis (2-ethylhexyl) Phthalate, and (2) Di-n-butyl Phthalate ("DBP"). Exposures to DEHP and DBP occur from use of the products identified in this notice.
- The specific type of products causing these violations is Headphone Cables. The Headphone Cables are made of and contain DEHP and DBP. A non-exclusive example of this specific type of products is the iPhone Headphone Cable.
- Description of Exposure: Use of the products identified in this notice results in human exposures to DEHP and DBP. DEHP and DBP are contained in the Headphone Cables. The routes of exposure for the violations are dermal absorption directly through the skin when consumers wear, touch, use, or handle the products, ingestion via hand to mouth contact after consumers touch, use, or handle the products, and direct ingestion when consumers place the products in their mouths during normal use. These exposures occur in homes, workplaces and everywhere else throughout California where these products are handled or used. No clear and reasonable warning is provided with these products regarding the carcinogenic or reproductive hazards of DEHP or DBP.

#### Resolution of Noticed Claims:

- Based on the allegations set forth in this Notice, CEH intends to file a citizen enforcement lawsuit against the alleged violator unless such violator enters into

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

Please direct any inquiries regarding this notice to CEH and its counsel Mark N. Todzo at Lexington Law Group, LLP, 1627 Irving Street, San Francisco, CA 94122, (415) 759-4111.

**PROOF OF SERVICE BY MAIL**

I declare that:

I am employed in San Francisco County, California. I am over the age of 18 years and not a party to the within cause; my business address is 1627 Irving Street, San Francisco, California 94122.

On October 15, 2007, I served true copies of the following documents:

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

**CERTIFICATE OF MERIT; and**

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

I placed a true copy of this paper in an envelope addressed to:

*See Attached Service List.*

I am readily familiar with my firm's practice for collection and processing of correspondence for mailing with the United States Postal Service, to wit, that correspondence will be deposited with the United States Postal Service this same day in the ordinary course of business. I placed the envelope containing the above-mentioned documents for collection and mailing on October 15, 2007, following the ordinary business practice.

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on October 15, 2007, at San Francisco, California.

Signed:

  
\_\_\_\_\_  
James Blair

## SERVICE LIST

District Attorney of Alameda County  
1225 Fallon Street, Room 900  
Oakland, CA 94612

District Attorney of Colusa County  
547 Market Street  
Colusa, CA 95932

District Attorney of Contra Costa  
County  
725 Court Street, Room 402  
Martinez, CA 94553

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

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

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

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

District Attorney of El Dorado  
County  
515 Main Street  
Placerville, CA 95667

District Attorney of Calaveras  
County  
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San Andreas, CA 95249

District Attorney of Fresno County  
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P.O. Box 430  
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District Attorney of Lake County  
255 N. Forbes Street  
Lakeport, CA 95453

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

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

District Attorney of Lassen County  
220 S. Lassen St., Ste 8  
Susanville, CA 96130

District Attorney of Inyo County  
P.O. Drawer D  
Independence, CA 93526

District Attorney of Los Angeles  
County  
210 W. Temple Street, Room 345  
Los Angeles, CA 90012

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

District Attorney of Kern County  
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Bakersfield, CA 93301

District Attorney of Marin County  
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San Rafael, CA 94903

District Attorney of Mono County  
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Bridgeport, CA 93517

District Attorney of Mariposa County  
P.O. Box 730  
Mariposa, CA 95338

District Attorney of Monterey County  
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Salinas, CA 93902

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

District Attorney of Napa County  
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Napa, CA 94559

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Merced, CA 95340

District Attorney of Nevada County  
201 Church St., Suite 8  
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District Attorney of Orange County  
401 Civic Ctr Drive West  
Santa Ana, CA 92702

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Alturas, CA 96101-4020

District Attorney of Placer County  
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Auburn, CA 95603

District Attorney of San  
Bernardino County  
316 N. Mountain View Avenue  
San Bernardino, CA 92415-0004

District Attorney of Plumas County  
520 Main Street, Room 404  
Quincy, CA 95971

District Attorney of San Diego  
County  
330 West Broadway, Suite 1320  
San Diego, CA 92101

District Attorney of Riverside  
County  
4075 Main Street, 1st Floor  
Riverside, CA 92501

District Attorney of San Francisco  
County  
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San Francisco, CA 94103

District Attorney of Sacramento  
County  
901 "G" Street  
Sacramento, CA 95814

District Attorney of San Joaquin  
County  
P.O. Box 990  
Stockton, CA 95201

District Attorney of San Luis  
Obispo County  
1050 Monterey St, Room 450  
San Luis Obispo, CA 93408

District Attorney of San Benito  
County  
419 Fourth Street, 2<sup>nd</sup> Floor  
Hollister, CA 95023

District Attorney of San Mateo  
County  
400 County Ctr, 3<sup>rd</sup> Fl  
Redwood City, CA 94063

District Attorney of Sierra County  
Courthouse, P.O. Box 457  
Downieville, CA 95936

District Attorney of Santa Barbara  
County  
1105 Santa Barbara Street  
Santa Barbara, CA 93101

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Yreka, CA 96097

District Attorney of Solano County  
600 Union Avenue  
Fairfield, CA 94533

District Attorney of Santa Clara  
County  
70 West Hedding Street  
San Jose, CA 95110

District Attorney of Santa Cruz  
County  
701 Ocean Street, Room 200  
Santa Cruz, CA 95061

District Attorney of Sonoma County  
600 Administration Drive, Room  
212J  
Santa Rosa, CA 95403

District Attorney of Shasta County  
1525 Court Street, Third Floor  
Redding, CA 96001-1632

District Attorney of Stanislaus  
County  
800 11<sup>th</sup> Street, Room 200  
Modesto, CA 95354

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

District Attorney of Ventura County  
800 South Victoria Ave  
Ventura, CA 93009

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

District Attorney of Yolo County  
301 Second Street  
Woodland, CA 95695

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

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

District Attorney of Tulare County  
221 S. Mooney Ave, Room 224  
Visalia, CA 93291

District Attorney of Tuolumne County  
2 South Green  
Sonora, CA 95370

San Jose City Attorney's Office  
151 West Mission Street  
San Jose, CA 95110

Los Angeles City Attorney's Office  
Room 1800, City Hall East  
200 N. Main Street  
Los Angeles, CA 90012

San Diego City Attorney's Office  
1200 3<sup>rd</sup> Avenue, Suite 1620  
San Diego, CA 92101

San Francisco City Attorney's Office  
City Hall, Room 234  
San Francisco, CA 94102

California Attorney General's Office  
Attention: Proposition 65 Coordinator  
1515 Clay Street, Suite 2000  
P.O. Box 7550  
Oakland, CA 94612

Steve Jobs\*  
Chief Executive Officer  
Apple, Inc.  
One Infinite Loop  
Cupertino, CA 95014

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

I, Mark N. Todzo, hereby declare:

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

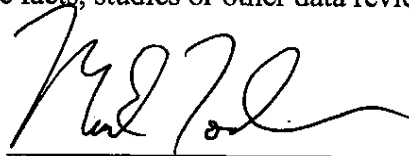
2. I am an attorney with the Lexington Law Group, LLP, and I represent the noticing party, the Center for Environmental Health ("CEH").

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

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

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

October 15, 2007



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Mark N. Todzo  
Attorney for CENTER FOR  
ENVIRONMENTAL HEALTH