

## NOTICE OF VIOLATION

### California Safe Drinking Water and Toxic Enforcement Act

Re: Di (2-ethylhexyl) Phthalate (DEHP) in Vinyl Gloves

June 5, 2008

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:

- Violator: The names and addresses of the violators are set forth on Exhibit 1 attached hereto.
- Time Period of Exposure: The violations have been occurring since at least June 5, 2005, and are continuing to this day.
- Provision of Proposition 65: This Notice of Violation covers the "warning provision" of Proposition 65, which is found at California Health and Safety Code Section 25249.6.
- Chemical(s) Involved: The name of the listed chemical involved in these violations is Di (2-ethylhexyl) Phthalate ("DEHP"), which is also known as Bis (2-ethylhexyl) Phthalate. Exposures to DEHP occur from use of the products identified in this notice.
- Type of Product: The specific type of product causing these violations is vinyl gloves. The vinyl gloves are made of and contain DEHP. Non-exclusive examples of this specific type of product are set forth in Exhibit 2 attached hereto.
- Description of Exposure: Use of the products identified in this notice results in human exposures to DEHP. DEHP is contained in the vinyl gloves. 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 their hands in their mouths while wearing the products or otherwise place the products in their mouths. 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.

### **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 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.

**EXHIBIT 1: List of Violators**  
**June 5, 2008 Notice of Violation**  
**Re: Di (2-ethylhexyl) Phthalate (DEHP) in Vinyl Gloves**

Annie International, Inc.  
500 Church Road  
North Wales, PA 19454

Trimaco, LLC  
2800 Meridian Parkway  
Suite 185  
Durham, NC 27713

Little Rapids Corporation  
dba Graham Professional Products  
2273 Larsen Road  
Green Bay, WI 54303

Universal Style Center, Inc.  
4793 Telegraph Avenue  
Oakland, CA 94609

Hair Art Int'l, Inc.  
8112 W. Third Street  
Los Angeles, CA 90048

Wilton Industries, Inc.  
2240 W. 75<sup>th</sup> Street  
Woodbridge, IL 60517

High Five Products, Inc.  
319 W. Ontario  
Chicago, IL 60610

Home Depot, Inc.  
2455 Paces Ferry Rd  
Atlanta, GA 30339

Home Depot USA, Inc.  
2455 Paces Ferry Rd  
Atlanta, GA 30339

J&J Beauty Supplies, Inc.  
4689 Telegraph Avenue  
Oakland, CA 94609

Konex Corporation  
1440 Louis Avenue  
Elk Grove, IL 60007

Medline Industries, Inc.  
One Medline Place  
Mundelein, IL 60060

Sally Beauty Holdings, Inc.  
3001 Colorado Boulevard  
Denton, TX 76210

**EXHIBIT 2: Non-Exclusive Examples of the Products  
 June 5, 2008 Notice of Violation  
 Re: Di (2-ethylhexyl) Phthalate (DEHP) in Vinyl Gloves**

Responsible Parties	Non-Exclusive Examples of the Products	Item or SKU No. or Further Description
Annie International, Inc.	Annie Vinyl Gloves Salon Style	SKU No. 0537203822 Item ID: Brown L # 3822
Graham Professional Products	Graham Professional Beauty Products, Salon Fit Vinyl Gloves  Kimwear Salon Fit Vinyl Gloves	SKU No. 4703635822 Sally Beauty Supply ID No: SBS-580114 (25-Count box, large gloves)  Sally Beauty Supply ID No: SBS-580112 (25-Count box, medium gloves)
Hair Art Int'l, Inc.	HAIRART Vinyl Multi-Purpose Gloves  Klove Disposable Vinyl Gloves, Powder Free	Item ID No. 5004 (Large)  Lot No. 005G25-TA3650
High Five Products, Inc.	High Five AloeFlex Vinyl Gloves	SKU No. 8343842110 Model No. RG182A
Home Depot U.S.A., Inc.	Performance Select Vinyl Gloves Silver Series # 178-293	SKU No. 6290900950
J&J Beauty Supplies, Inc.	Sanitex Vinyl Gloves	UPC No. 4056202192 Item ID No. 2192

Responsible Parties	Non-Exclusive Examples of the Products	Item or SKU No. or Further Description
Konex Corporation	Gabiella Professional Quality Vinyl Gloves	SKU No. 7133110003
Medline Industries, Inc.	Medline Ultra Synthetic Exam Gloves	Item ID No. MDS193074
Sally Beauty Holdings, Inc.	<p>Salon Care Black Vinyl Gloves</p> <p>High Five AloeFlex Vinyl Gloves</p> <p>Graham Professional Beauty Products, Salon Fit Vinyl Gloves</p> <p>Kimwear Salon Fit Vinyl Gloves</p>	<p>Sally Beauty Supply ID No. SBS-584050</p> <p>SKU No. 8343842110 Model No. RG182A</p> <p>SKU No. 4703635822 Sally Beauty Supply ID No. SBS-580114 (25-Count box, large gloves)</p> <p>Sally Beauty Supply ID No. SBS-580112 (25-Count box, medium gloves)</p>
Trimaco, LLC	TRIMACO Vinyl Gloves	<p>SKU No. 01303</p> <p>Bar Code No. 4730401303</p>
Universal Style Center, Inc.	Klove Disposable Vinyl Gloves, Powder Free	Lot No. 005G25-TA3650
Wilton Industries, Inc.	Wilton All-Purpose Clear Decorator Gloves	<p>SKU No. 7089641642</p> <p>Stock No. 417-1642</p>

**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 parties identified in the notice have 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 violators 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.

June 5, 2008

  
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Mark N. Todzo  
Attorney for CENTER FOR  
ENVIRONMENTAL HEALTH

**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 June 5, 2008, 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 June 5, 2008, 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 June 5, 2008, at San Francisco, California.

Signed:

  
Lindsay Fleece

### SERVICE LIST

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

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Ukiah, CA 95482

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Napa, CA 94559

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Merced, CA 95340

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Sacramento, CA 95814

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Stockton, CA 95201

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San Luis Obispo, CA 93408

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Hollister, CA 95023

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County  
400 County Ctr, 3<sup>rd</sup> Fl  
Redwood City, CA 94063  
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Downieville, CA 95936

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Santa Barbara, CA 93101

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Yreka, CA 96097

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Marysville, CA 95901

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200 East Santa Clara Street  
San Jose, CA 95113

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

San Diego City Attorney's Office  
1200 3rd Avenue #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 70550  
Oakland, CA 94612

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