

NOTICE OF VIOLATION

California Safe Drinking Water and Toxic Enforcement Act

Arsenic in Drinking Water Filtration Systems

March 1, 2013

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, 2201 Broadway, Suite 302, Oakland, CA 94612, (510) 655-3900. CEH is a nonprofit corporation dedicated to protecting the environment, improving human health and supporting environmentally sound practices. Charlie Pizarro is the Associate Director of and a responsible individual within CEH.

Description of Violation:

- Violators: The names and addresses of the violators are listed on the attached Exhibit 1.
- Time Period of Exposure: The violations have been occurring since at least March 1, 2010, and are continuing to this day.
- Provision of Proposition 65: This Notice of Violation covers both the "discharge provision" of Proposition 65 and the "warning provision" of Proposition 65, which are found at California Health and Safety Code Sections 25249.5 and 25249.6, respectively.
- Chemical(s) Involved: The name of the listed chemical involved in these violations is Arsenic. Arsenic, as used herein, refers to arsenic (inorganic arsenic compounds) and arsenic (inorganic arsenic oxides). Discharges of Arsenic and exposures to Arsenic occur from use of the products identified in this Notice.
- Type of Products: The specific type of products causing these violations is drinking water filtration systems utilizing activated carbon filters and the replacement filters used in such systems. Non-exclusive examples of this specific type of products are listed on the attached Exhibit 1.
- Discharge Violations: Use of these products results in discharges or releases of Arsenic into a source of drinking water. Specifically, the drinking water filtration systems that are the subject of this Notice of Violation contain sufficient quantities of Arsenic such that Arsenic will leach from the filtration systems into water that passes through them. Arsenic is contained in the activated carbon used in these systems. As part of the water delivery system, these products are sources of drinking water under Proposition 65. The water in these filtration systems is a source of drinking water. These discharges occur throughout California where these filtration systems are used.

- Warning Violations: Use of the products identified in this Notice also results in human exposures to Arsenic. The filtration systems are constructed of materials that contain Arsenic. Arsenic is contained in the activated carbon used in these systems. The route of exposure for the violations is ingestion of water containing Arsenic that is discharged through the filters. These exposures occur throughout California where these filtration systems are used. No clear and reasonable warning is provided with these products regarding the carcinogenic or reproductive hazards of Arsenic.

Resolution of Noticed Claims:

- Based on the allegations set forth in this Notice, CEH intends to file a citizen enforcement lawsuit against each of the alleged violators unless such violators enter into a binding written agreement to: (1) recall products already sold; (2) take action to ensure that products sold in the future will not create unlawful exposures to and discharges of Arsenic; and (3) pay an appropriate civil penalty based on the factors enumerated in California Health and Safety Code Section 25249.7(b). If any of the alleged violators are 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 through its counsel Eric S. Somers (esomers at lexlawgroup.com) at Lexington Law Group, 503 Divisadero Street, San Francisco, CA 94117, (415) 913-7800.

EXHIBIT 1
March 1, 2013 Notice of Violation
Arsenic in Drinking Water Filtration Systems
Non-Exclusive Examples of the Products

Names and Addresses of Responsible Parties	Non-Exclusive Examples of the Products	Item or SKU # or Further Description
<p>Cascade Designs, Inc. 4000 First Avenue South Seattle, WA 98134</p>	<p>MSR SweetWater Filter Cartridge</p>	<p>SW Filter Cartridge #34-124 REI Item No. 406-145-0013 SKU No. 0-040818-022139</p>
<p>Katadyn North America, Inc. 4830 Azelia Avenue North Suite 300 Brooklyn Center, MN 55429</p>	<p>Katadyn Vario Microfilter Replacement Element</p>	<p>REI Item No. 750-928-0017 SKU No. 6-04375-14933-5</p>
<p>Recreational Equipment, Inc. 6750 S. 228th St. Kent, WA 98032</p>	<p>MSR SweetWater Filter Cartridge</p>	<p>SW Filter Cartridge #34-124 REI Item No. 406-145-0013 SKU No. 0-040818-022139</p>
	<p>Katadyn Vario Microfilter Replacement Element</p>	<p>REI Item No. 750-928-0017 SKU No. 6-04375-14933-5</p>

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

I, Eric S. Somers, 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 and I represent the noticing party, the Center for Environmental Health.

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.

March 1, 2013



Eric S. Somers
Attorney for CENTER FOR
ENVIRONMENTAL HEALTH

PROOF OF SERVICE BY MAIL AND ELECTRONIC MAIL

I declare that:

I am employed in San Francisco County, California; my business address is 503 Divisadero Street, San Francisco, California 94117. I am over the age of 18 years and not a party to the within cause and my electronic notification address is jbanister@lexlawgroup.com.

On March 1, 2013, 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 asterisk).

On this date, I deposited fully prepaid and sealed envelopes containing the above-mentioned documents with the United States Postal Service, addressed to the following individuals:

Please see attached service list.

Also on this date, I transmitted via electronic mail the documents listed above to the electronic mail addresses set forth below at 3:00 p.m. on March 1, 2013:

Lon Wixson, Deputy District
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Prop65@standa.org

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Riverside, CA 92501
Prop65@rivcoda.org

The transmission was reported as complete and without error.

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on March 1, 2013, at San Francisco, California.

Signed: _____

John Banister

SERVICE LIST

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1225 Fallon Street, Rm. 900
Oakland, CA 94612

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P.O. Box 248
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25 County Center Drive
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547 Market Street, Ste. 102
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825 5th Street
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939 Main Street, Ste. 102
El Centro, CA 92243

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1215 Truxtun Avenue
Bakersfield, CA 93301

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1400 West Lacey Blvd.
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California Attorney General's Office
Attention: Proposition 65
Coordinator and Robert Thomas
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