

## 60 DAY NOTICE OF VIOLATION

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

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**DATE:** March 1, 2013  
**To:** Lava Propane LLC and 7-Eleven Inc.  
California Attorney General's Office;  
District Attorney's Office for 58 Counties; and  
City Attorney's Office for Los Angeles, San Diego, San Jose and San Francisco.

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**From:** AFS Enterprises LLC

### I. INTRODUCTION

Our name is AFS Enterprises LLC. We are citizens and a Limited Liability Company of the State of California acting in the interest of the general public. We seek to promote awareness of exposures to toxic chemicals in products sold in California and, if possible, to improve public health and safety by reducing the hazardous substances contained in such items. This Notice is provided to the parties listed above pursuant to California Health & Safety Code §25249.6, et seq. ("Proposition 65"). The violations alleged by this Notice consist of product exposures, routes of exposures, and types of harm that may potentially result from exposures to the toxic chemical ("listed chemical") identified below:

<b>Product Exposure:</b>	<b>See Section VII, Exhibit A</b>
<b>Listed Chemical:</b>	<b>Benzene, Carbon Monoxide, Carbon black</b>
<b>Routes of Exposure:</b>	<b>Inhalation</b>
<b>Types of Harm:</b>	<b>Carcinogen, Causes Birth Defects and Other Reproductive Toxicity</b>

### 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 which is the subject of this Notice, is listed under "Product Category/Type" in Exhibit A in Section VII below. All products within the type covered by this Notice shall be referred to hereinafter as the "products." The sales of these products in California dating at least as far back as February 15, 2008 are subject to this Notice. As a result of the sales of these products, exposures to the listed chemical have been occurring without clear and responsible warnings as required by Proposition 65. Without proper warnings regarding the toxic effects of exposures to the listed chemical, resulting from contact with the products, California citizenry lack the information necessary to make informed decisions on whether and how to eliminate (or reduce) the risk of exposure to the toxic chemical from the reasonably foreseeable use of the products.

The alleged violators respectively produce propane gas, distribute and/or sell propane gas to California consumers, who (by their reasonably foreseeable use of the consumer product) burn it for the purpose of cooking. The act of burning propane gas produces benzene, carbon monoxide and carbon black which is then inhaled by consumers. Benzene, carbon monoxide and carbon black are on the Governor's list, as expressed at 22 C.C.R. 12000, and is known to the State of California to cause cancer and reproductive toxicity. The alleged violators do not provide California consumers with clear and reasonable warnings regarding exposure to benzene, carbon monoxide and carbon black as a consequence of the product's reasonably foreseeable use. Without first receiving clear and reasonable warnings (as required by Proposition 65), California consumers purchase propane gas, burn it, and thereby unwittingly inhale and are exposed to benzene, carbon monoxide and carbon black. Through the act of buying, acquiring and using the products, citizens of California are exposed to the listed chemical in homes, workplaces and elsewhere throughout California where these products are used. Exposure to consumers includes, but is not limited to, when handling the product Benzene, carbon monoxide and carbon black are produced and are then absorbed or ingested via inhalation. Exposure may continue to occur for a significant period after the initial contact. These activities cause women, pregnant women, and women of child bearing age to be exposed directly through migration of the listed chemical from the products. People likely to be exposed are women, men, infants and children. These violations and threatened violations pertain to Proposition 65 chemicals that re listed as carcinogens and as reproductive toxins.

### **III. CONTACT INFORMATION**

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

AFS Enterprises LLC  
c/o Daniel N. Greenbaum, Esq.  
1467 South Holt Avenue #2  
Los Angeles, CA 90035  
Phone: 310.200.2631

### **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 ("OEHHA") in the Proposition 65 Implementation Office at (916) 445-6900. For the alleged Violator(s), I have attached a copy of "Proposition 65 in Plain Language" which has been prepared by OEHHA.

### **V. RESOLUTION OF NOTICED CLAIMS**

Based on the allegations set forth in this Notice, we intend to file a citizen enforcement lawsuit against the alleged Violator(s), 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 whom have received such products; (2) provide clear and reasonable warnings for

products sold in the future, or reformulate such products to eliminate the Benzene, Carbon Monoxide and Carbon Black 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 our counsel identified in Section III. It should be noted that neither our counsel nor I can: (1) finalize any settlement until after the 60-day Notice period elapses; nor (2) speak for the Attorney General or any District Attorney or City Attorney who received this Notice. Therefore, while reaching an agreement that will resolve our claims, such as agreement may not satisfy the public prosecutors.

## **VI. ADDITIONAL INFORMATION**

<b><u>Product</u></b>	<b><u>Retailer(s)</u></b>	<b><u>Manufacturer(s)/Distributor(s)</u></b>
Propane gas	7-Eleven, 76, Chevron	Lava Propane LLC

Identified above is a specific example of a product recently purchased and witnesses as being available for purchase or use in California that is 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 example within the category or type of product are also provided below. We believe and allege that the sale of the offending products also has occurred without the requisite Proposition 65 “clear and reasonable warnings” 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 catalog by the alleged Violator(s) and other distributors and retailers of the product.

## **VII. EXHIBIT A**

<b><u>Product Category/Type</u></b>	<b><u>Specific Product<sup>1</sup></u></b>	<b><u>Toxins</u></b>
Propane gas	20 Lb Propane tank filled with propane	Benzene, Carbon Monoxide, Carbon Black

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<sup>1</sup> The specific example identified above is of the type of product which is the subject of this Notice. I am identifying herein for all recipients’ benefit to assist in its investigation of, among other things, the magnitude of potential exposure to the listed chemical from other items within the product category/type listed in Exhibit A. It is important to note that this example does not represent an exhaustive or comprehensive identification of any or all specific products of the type listed under “Product Category/Type” in Exhibit A. Further, it is this citizen’s position that the alleged Violator(s) 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 alleged Violator(s)’ custody or control) during the relevant period so as to ensure that the requisite toxic warnings are provided to California citizens prior to purchase.

## Master Mailing List

### I. Interested Parties (Sent via Certified Mail)

LAVA PROPANE LLC  
c/o LegalZoom.com, Inc.  
101 N. Brand Blvd., 11th Flr.  
Glendale, CA 91203

LAVA PROPANE LLC  
Attn: Legal  
531 Red River Circle  
Walnut, CA 91789

7-Eleven, Inc.  
c/o Corporate Creations Network, Inc.  
131-A Stoney Circle, Ste 500  
Santa Rosa CA 95401

7-Eleven, Inc.  
Attn: Legal  
One Arts Plaza  
1722 Routh St., Suite 1000  
Dallas, TX 75201

### II. California Attorney General (via website Portal)

### III. District and City Attorneys (via U.S. Mail)

See attached pages for full service list

District Attorney  
ALAMEDA COUNTY  
1225 Fallon Street, Room 900  
Oakland, CA 94612

District Attorney  
ALPINE COUNTY  
PO Box 248  
Markleeville, CA 96120

District Attorney  
AMADOR COUNTY  
708 Court Street  
#202 Jackson, CA 95642

District Attorney  
BUTTE COUNTY  
25 County Center Drive — Administration  
Building  
Oroville, CA 95965

District Attorney  
CALAVERAS COUNTY  
891 Mountain Ranch Road  
San Andreas, CA 95249

District Attorney  
COLUSA COUNTY  
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District Attorney  
CONTRA COSTA COUNTY  
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Martinez, CA 94553

District Attorney  
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Crescent City, CA 95531

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El Centro, CA 92243

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INYO COUNTY  
168 North Edwards  
Independence, CA 93526

District Attorney  
KERN COUNTY  
1215 Truxtun Avenue  
Bakersfield, CA 93301

District Attorney  
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1400 West Lacey Blvd.  
Hanford, CA 93230

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LAKE COUNTY  
255 N. Forbes Street  
Lakeport, CA 95453

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220 S. Lassen Street  
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210 W. Temple Street  
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Madera, CA 93637

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3501 Civic Center Drive  
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District Attorney  
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Ukiah, CA 95482

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550 West Main Street  
Merced, CA 95340

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Room 202 Alturas, CA 96101

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MONO COUNTY  
PO BOX 2053  
Mammoth Lakes, CA 93546

District Attorney  
MONTEREY COUNTY  
PO BOX 1131  
Salinas, CA 93902

District Attorney  
NAPA COUNTY  
PO BOX 720  
Napa, CA 94559

District Attorney  
NEVADA COUNTY  
110 Union Street  
Nevada City, CA 95959

District Attorney  
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401 Civic Center Drive West  
Santa Ana, CA 92701

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10810 Justice Center Drive  
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520 Main Street  
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Riverside, CA 92501

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901 G Street  
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419 4th Street  
Hollister, CA 95023

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San Bernardino, CA 92415

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330 W. Broadway,  
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San Diego, CA 92101

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SAN FRANCISCO COUNTY  
880 Bryant Street, Third Floor  
San Francisco, CA 94103

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SAN JOAQUIN COUNTY  
PO BOX 990  
Stockton, CA 95202

District Attorney  
SAN LUIS OBISPO COUNTY  
Courthouse Annex, 4th Floor  
San Luis Obispo, CA 93408

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SAN MATEO COUNTY  
400 County Center, Third Floor  
Redwood City, CA 94063

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SANTA BARBARA COUNTY  
1112 Santa Barbara Street  
Santa Barbara, CA 93101

District Attorney  
SANTA CLARA COUNTY  
70 West Hedding Street,  
West Wing  
San Jose, CA 95110

District Attorney  
SANTA CRUZ COUNTY  
701 Ocean Street  
Room 200  
Santa Cruz, CA 95060

District Attorney  
SHASTA COUNTY  
1355 West Street  
Redding, CA 96001

District Attorney  
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100 Courthouse Square  
Downieville, CA 95936

District Attorney  
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PO BOX 986  
Yreka, CA 96097

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675 Texas Street  
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Fairfield, CA 94533

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600 Administration Drive  
Room 212J  
Santa Rosa, CA 95403

District Attorney  
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832 12th Street  
Suite. 300  
Modesto, CA 95353

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SUTTER COUNTY  
446 Second Street, Suite 102  
Yuba City, CA 95991

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TEHAMA COUNTY  
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Red Bluff, CA 96080

District Attorney  
TRINITY COUNTY  
PO BOX 310  
Weaverville, CA 96093

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Suite 224  
Visalia, CA 93291

District Attorney  
TUOLUMNE COUNTY  
423 No. Washington Street  
Sonora, CA 95370

District Attorney  
VENTURA COUNTY  
800 South Victoria Avenue  
Ventura, CA 93009

District Attorney  
YOLO COUNTY  
301 Second Street  
Woodland, CA 95695

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Carmen Trutanich  
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Los Angeles, CA 90012

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95113

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CITY OF SAN FRANCISCO  
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1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102

LAVA PROPANE LLC  
c/o LegalZoom.com, Inc.  
101 N. Brand Blvd., 11th Flr.  
Glendale, CA 91203

LAVA PROPANE LLC  
Attn: Legal  
531 Red River Circle  
Walnut, CA 91789

7-Eleven, Inc.  
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131-A Stoney Circle, Ste 500  
Santa Rosa CA 95401

7-Eleven, Inc.  
Attn: Legal  
One Arts Plaza  
1722 Routh St., Suite 1000  
Dallas, TX 75201

## CERTIFICATE OF MERIT

I, Daniel N. Greenbaum, hereby declare:

(1) This Certificate of Merit accompanies the attached sixty-day notice(s) in which it is alleged the parties identified in the notices have violated Health and Safety Code section 25249.6 by failing to provide clear and reasonable warnings.

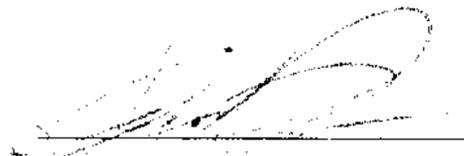
(2) I am the attorney for the noticing party.

(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 the 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 plaintiffs' 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 the information identified in Health and Safety Code section 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: 3/15/13

  
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(Signature)