

NOTICE OF VIOLATION

California Safe Drinking Water and Toxic Enforcement Act

Tris(1,3-dichloro-2-propyl) Phosphate ("TDCPP") in
Foam-Cushioned Upholstered Furniture

May 31, 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 ("CEH"), 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 October 28, 2012, 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 tris(1,3-dichloro-2-propyl) phosphate ("TDCPP"). Exposures to TDCPP occur from use of the products identified in this Notice.
- Type of Products: The specific type of products causing this violation is Foam-Cushioned Upholstered Furniture. A non-exclusive example of this specific type of products is listed on the attached Exhibit 1.
- Description of Exposure: This Notice addresses consumer exposures to TDCPP. Use of the products identified in this Notice results in human exposures to TDCPP. The products contain TDCPP, particularly in the foam-padded portions that have been treated with TDCPP as a flame retardant. The routes of exposure for the violations include inhalation, ingestion, and/or dermal absorption by consumers (including children). Inhalation occurs when TDCPP is released from the products into the ambient environment. Ingestion and dermal absorption occur when TDCPP from the products accumulates in ambient particles (e.g., dust) that are subsequently touched by consumers (including children) and brought into contact with the mouth. No clear and reasonable warning is provided with these products regarding the carcinogenic hazards of

TDCPP.

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 violator agrees in a binding written instrument 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 TDCPP exposures; 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 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 through its counsel Mark N. Todzo (mtodzo@lexlawgroup.com) at Lexington Law Group, 503 Divisadero Street, San Francisco, CA 94117, (415) 913-7800.

EXHIBIT 1
May 31, 2013 Notice of Violation
Tris(1,3-dichloro-2-propyl) Phosphate in Foam-Cushioned Upholstered Furniture

Names and Addresses of Responsible Parties	Non-Exclusive Examples of the Products	Item or SKU # or Further Description
BenchMaster Furniture, LLC 4545 Firewheel Drive Plano, TX 75024	BenchMaster Monterey Leather Swivel Recliner in Black	Item No. 7016L
Z Lights and Furniture, Inc. 5620 General Washington Drive Alexandria, VA 22312	BenchMaster Monterey Leather Swivel Recliner in Black	Item No. 7016L

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, 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.

May 31, 2013



Mark N. Todzo
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 May 31, 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 4:28 p.m. on May 31, 2013:

Lon Wixson, Deputy District
Attorney
Contra Costa County
900 Ward Street
Martinez, CA 94553
lwixson@contracostada.org

Karyn Sinunu-Towery,
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Santa Clara County
70 West Hedding Street, West Wing
San Jose, CA 95110
epu@da.sccgov.org

Birgit Fladager, District Attorney
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832 12th Street, Ste. 300
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Prop65@standa.org

Gary Lieberstein, District Attorney
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931 Parkway Mall
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CEPD@countyofnapa.org

Dije Ndreu, Deputy District Attorney
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jbarnes@sonoma-county.org

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221 S. Mooney Avenue, Rm. 224
Visalia, CA 93291
Prop65@co.tulare.ca.us

Gregory D. Totten, District Attorney Ventura
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800 South Victoria Avenue
Ventura, CA 93009
daspecialops@ventura.org

Paul E. Zellerbach, District Attorney
Riverside County
4075 Main Street
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 May 31, 2013, at San Francisco, California.

Signed: _____

John Banister

SERVICE LIST

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

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

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

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

District Attorney of Calaveras County
891 Mountain Ranch Road
San Andreas, CA 95249

District Attorney of Colusa County
547 Market Street, Ste. 102
Colusa, CA 95932

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

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

District Attorney of Fresno County
2220 Tulare Street, Ste. 1000
Fresno, CA 93721

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825 5th Street
Eureka, CA 95501

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939 Main Street, Ste. 102
El Centro, CA 92243

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P.O. Drawer D
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1215 Truxtun Avenue
Bakersfield, CA 93301

District Attorney of Kings County
1400 West Lacey Blvd.
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District Attorney of Lake County
255 N. Forbes Street
Lakeport, CA 95453

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220 S. Lassen Street, Ste. 8
Susanville, CA 96130

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209 West Yosemite Avenue
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Ukiah, CA 95482

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204 S. Court Street, Rm. 202
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District Attorney of Mono County
P.O. Box 617
Bridgeport, CA 93546

District Attorney of Nevada County
110 Union Street
Nevada City, CA 95959

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

District Attorney of Placer County
10810 Justice Center Drive, Ste. 240
Roseville, CA 95678

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

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

District Attorney of San Benito County
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Hollister, CA 95023

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San Bernardino, CA 92415

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Los Angeles, CA 90012

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Attn: Jerry Lule-Jian
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Santa Maria, CA 93454

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San Diego, CA 92101

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Downieville, CA 95936

San Jose City Attorney's Office
200 East Santa Clara Street
San Jose, CA 95113

District Attorney of Siskiyou County
P.O. Box 986
Yreka, CA 96097

California Attorney General's Office
Attention: Proposition 65
Coordinator and Robert Thomas
1515 Clay Street, Ste. 2000
P.O. Box 70550
Oakland, CA 94612-0550

District Attorney of Solano County
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Fairfield, CA 94533

Eugene Trobaugh, President *
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Ghassan Saoud, President *
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District Attorney of Yolo County
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