

NOTICE OF VIOLATION

California Safe Drinking Water and Toxic Enforcement Act

Acetaldehyde Exposures Resulting From Use Of Liquids Used With Electronic Cigarette Devices

September 2, 2015

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 identified in the attached Exhibit 1.
- Time Period of Exposure: The violations have been occurring since at least September 2, 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 acetaldehyde. Exposures to acetaldehyde occur from use of the products identified in this Notice.
- Type of Product: The specific type of product causing these violations is liquids used with electronic cigarette devices, also known as "tanks" and "vape pens." Such liquids include both nicotine containing and non-nicotine containing liquids. Non-exclusive examples of this specific type of product are identified in the attached Exhibit 1.
- Description of Exposure: This Notice addresses consumer exposures to acetaldehyde. Use of the products identified in this Notice results in human exposures to acetaldehyde. Acetaldehyde is produced when electronic cigarette devices utilizing such products are used in the intended manner. The primary routes of exposure for the violations are inhalation and direct ingestion when consumers inhale the aerosol emitted from electronic cigarette devices utilizing the products. These exposures occur in homes, workplaces and everywhere else throughout California where the products are used. No clear and reasonable warning is provided with these products regarding the carcinogenic hazards of acetaldehyde.

Resolution of Noticed Claims:

Based on the allegations set forth in this Notice, CEH intends to file a citizen enforcement lawsuit against each alleged violator 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; and (3) pay an appropriate civil penalty based on the factors enumerated in California Health and Safety Code Section 25249.7(b). If any 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.

Preservation of Relevant Evidence:

This Notice also serves as a demand that each alleged violator preserve and maintain all relevant evidence, including all electronic documents and data, pending resolution of this matter. Such relevant evidence includes but is not limited to all documents relating to acetaldehyde produced through or during use of liquids used with electronic cigarette devices; actual or potential exposures to acetaldehyde from use of such products; purchase and sales information for such products; efforts to comply with Proposition 65 with respect to such products; communications with any person relating to actual or potential exposures to acetaldehyde from use of such products; and representative exemplars of each unit of any such products sold by the alleged violators in the year preceding this Notice.

Please direct any inquiries regarding this Notice to CEH's counsel Mark N. Todzo at Lexington Law Group, 503 Divisadero Street, San Francisco, CA 94117, (415) 913-7800, mtodzo@lexlawgroup.com.

EXHIBIT 1
September 2, 2015 Notice of Violation
Acetaldehyde Exposures Resulting From Use of Liquids
Used With Electronic Cigarette Devices

Names and Addresses of Responsible Parties	Liquids for Use with Electronic Cigarette Devices
<p style="text-align: center;">American Vapor Inc. dba Artisan Vapor Company 2100 Regency Drive Irving, TX 75062</p>	<p style="text-align: center;">Artisan Vapor Company E-Liquid in Minty White Chocolate 30 mg Nicotine</p>
	<p style="text-align: center;">Artisan Vapor Company E-Liquid in Forbidden Fruit 12 mg Nicotine</p>
<p style="text-align: center;">Avail Vapor, LLC 820 Southlake Blvd. Richmond, VA 23236</p>	<p style="text-align: center;">Avail Premium E-Liquid in Crunch Monster, 24 mg Nicotine SKU No. CRMO1524</p>
	<p style="text-align: center;">Avail Premium E-Liquid in Aphrodite, 24 mg Nicotine SKU No. 9124044</p>
	<p style="text-align: center;">Avail Premium E-Liquid in Midnight Stack Reserve 8 mg Nicotine SKU No. MIST1508</p>
	<p style="text-align: center;">Avail Premium E-Liquid in Aztec, 24 mg Nicotine SKU No. 9124002</p>
<p style="text-align: center;">CB Distributors, Inc. 2500 Kennedy Drive Beloit, WI 53511</p>	<p style="text-align: center;">Vapin Plus E-Juice in Vanilla 16 mg Nicotine SKU No. 3-65860-37069-5</p>
	<p style="text-align: center;">Vapin Plus E-Juice in Rich Tobacco 24 mg Nicotine SKU No. 3-65860-37133-3</p>
	<p style="text-align: center;">Vapin Plus E-Juice in Peach 24 mg Nicotine SKU No. 3-65860-37127-2</p>

<p>ePuffer International Inc. 800 Steeles Avenue West Unit B10, Suite 185 Thornhill ON L4J 7L2 Canada</p>	<p>ePuffer Royal Blend eLiquid in Belgo Tobacco 8 mg Nicotine</p>
	<p>ePuffer Royal Blend eLiquid in Premium Tobacco 8 mg Nicotine</p>
<p>International Vapor Group, Inc. 15050 NW 79th Court Miami Lakes, FL 33016</p> <p>Beach Wellness LLC 465 Ocean Drive, #809 Miami Beach, FL 33139</p> <p>South Beach Smoke Inc. 15050 NW 79th Court Suite 101A Miami Lakes, FL 33016</p>	<p>South Beach Smoke E-Liquid in Vanilla Bean Dream 24 mg Nicotine SKU No. 8-11960-02031-7</p>
<p>Joyetech USA, Inc. 16 Technology Drive, #118 Irvine, CA 92618</p> <p>Shenzhen Joyetech Co., Ltd. 16 Technology Drive, #118 Irvine, CA 92618</p>	<p>Joyetech E-Liquid in Cappuccino 12 mg Nicotine</p>
	<p>Joyetech E-Liquid in Peppermint 0 mg Nicotine</p>
	<p>Joyetech E-Liquid in Cigar 11 mg Nicotine</p>
<p>Lead By Sales, LLC 1827 Industrial Blvd. Tarpon Springs, FL 34689</p>	<p>White Cloud Cleardraw2 Cartridge in Full Strength Cinnamon SKU No. 8-10570-02155-4 Item No. 438-3-F</p>
<p>Nicopure Labs, LLC 5909 NW 18th Drive Gainesville, FL 32653</p>	<p>Halo E-Liquid in VooDoo 12 mg Nicotine SKU No. ELIQ-VODO-12MG-07ML</p>
<p>NJOY, Inc. dba NJOY Ends 15211 N. Kierland Blvd. Suite 200 Scottsdale, AZ 85254</p>	<p>NJOY E-Liquid in Menthol 10 mg Nicotine SKU No. 8-10687-01777-8</p>

<p>R.J. Reynolds Vapor Company 401 North Main Street Winston-Salem, NC 27101</p>	<p>Vuse Replacement Cartridges in Menthol SKU No. 8-49205-00061-9</p>
	<p>Vuse Replacement Cartridges in Original SKU No. 8-49205-00058-9</p>
<p>United Tobacco Vapor Group, Inc. 1005 Union Center Drive Suite F Alpharetta, GA 30004</p>	<p>Flavor Vapes E-Liquid in Peach Mango 24 mg Nicotine SKU No. 8-18199-01226-7</p>
<p>Vapor Corp. 3001 Griffin Road Dania Beach, FL 33312</p> <p>The Vape Store, Inc. 4400 Biscayne Blvd. Suite 850 Miami, FL 33137</p> <p>Vaporin, Inc. 4400 Biscayne Blvd. Suite 850 Miami, FL 33137</p> <p>Vaporin Florida, Inc. 4400 Biscayne Blvd. Suite 850 Miami, FL 33137</p>	<p>The Vape Store E-Liquid in Bavarian Cream 18 mg Nicotine Product No. 25048</p>
	<p>Vaporin E-Liquid in Blueberry, 6 mg Nicotine Item No. 19022-001-LIT SKU No. 8-57810-00433-5</p>
<p>VMR Products LLC 3050 Biscayne Blvd. 8th Floor Miami, FL 33137</p>	<p>Vapor Couture Rechargeable Express Kit in Arctic Mint SKU No. 8-49349-00265-4</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, 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.

September 2, 2015



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 cfisher@lexlawgroup.com.

On September 2, 2015, 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 3:41 p.m. on September 2, 2015:

Stacey Grassini, Deputy District Attorney
Contra Costa County
900 Ward Street
Martinez, CA 94553
sgrassini@contracostada.org

Dije Ndreu, Deputy District Attorney
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Prop65DA@co.monterey.ca.us

Yeng Dang
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CEPD@countyofnapa.org

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600 Administration Drive, Rm. 212J
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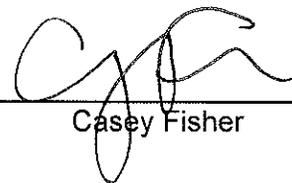
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Jeff W. Reisig, District Attorney
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301 Second Street
Woodland, CA 95695
cfepd@yolocounty.org

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 September 2, 2015, at San Francisco, California.

Signed: 

Casey Fisher

SERVICE LIST

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1225 Fallon Street, Rm. 900
Oakland, CA 94612

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P.O. Box 248
Markleeville, CA 96120

District Attorney of Amador County
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District Attorney of Butte County
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25 County Center Drive
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District Attorney of Calaveras
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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
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Placerville, CA 95667

District Attorney of Fresno County
2220 Tulare Street, Ste. 1000
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1400 West Lacey Blvd.
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240
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District Attorney of Santa Barbara County Attn: Jerry Lule-Jian 312-D E. Cook Street Santa Maria, CA 93454	San Francisco City Attorney's Office City Hall, Room 234 1 Dr. Carlton B. Goodlett Place San Francisco, CA 94102	President* Beach Wellness LLC 465 Ocean Drive, #809 Miami Beach, FL 33139
District Attorney of Shasta County 1355 West Street Redding, CA 96001	San Jose City Attorney's Office 200 East Santa Clara Street San Jose, CA 95113	President* Beach Wellness LLC 15050 NW 79 th Court Suite101A Miami Lakes, FL 33016
District Attorney of Sierra County Courthouse 100 Courthouse Sq., 2 nd Fl. Downieville, CA 95936	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	Nicolas Molina, CEO* South Beach Smoke Inc. 15050 NW 79 th Court Suite101A Miami Lakes, FL 33016
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District Attorney of Trinity County P.O. Box 310 11 Court Street Weaverville, CA 96093	President* ePuffer International Inc. 800 Steeles Avenue West Unit B10, Suite 185 Thornhill ON L4J 7L2 Canada	President* Nicopure Labs, LLC 5909 NW 18 th Drive Gainesville, FL 32653
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