

## NOTICE OF VIOLATION

### California Safe Drinking Water and Toxic Enforcement Act

#### Formaldehyde Exposures Resulting From Use Of Liquids Used With Electronic Cigarette Devices

January 13, 2016

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:

- Violator: The name and address of the violator is:  
**Mt. Baker Vapor LLC**  
7159 Guide Meridian Road  
Lynden, WA 98264
- Time Period of Exposure: The violations have been occurring since at least January 13, 2013, 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 formaldehyde. Exposures to formaldehyde 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 formaldehyde. Use of the liquid products identified in this Notice results in human exposures to formaldehyde. Formaldehyde 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 formaldehyde.

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](mailto:mtodzo@lexlawgroup.com).

**EXHIBIT 1**  
**January 13, 2016 Notice of Violation**  
**Formaldehyde Exposures Resulting From Use Of Liquids**  
**Used With Electronic Cigarette Devices**

<b>Name and Address of Responsible Party</b>	<b>Liquids for Use with Electronic Cigarette Devices</b>
<b>Mt. Baker Vapor LLC</b> 7159 Guide Meridian Road Lynden, WA 98264	Mt. Baker Vapor E-Juice in Hawk Sauce 24 mg Nicotine
	Gwar Fluids E-Juice in Spew 18 mg Nicotine
	Gwar Fluids E-Juice in Jizmoglobin 18 mg Nicotine
	Gwar Fluids E-Juice in German Chocolate Beefcake 18 mg Nicotine

**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 party identified in the notice has 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.

January 13, 2016



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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](mailto:cfisher@lexlawgroup.com).

On January 13, 2016, 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 12:51 P.m. on January 13, 2016:

Stacey Grassini, Deputy District Attorney  
Contra Costa County  
900 Ward Street  
Martinez, CA 94553  
[sgrassini@contracostada.org](mailto:sgrassini@contracostada.org)

Michelle Latimer, Program Coordinator  
Lassen County  
220 S. Lassen Street  
Susanville, CA 96130  
[mlatimer@co.lassen.ca.us](mailto:mlatimer@co.lassen.ca.us)

Yeng Dang  
Supervising Deputy District Attorney  
Santa Clara County  
70 West Hedding Street, West Wing  
San Jose, CA 95110  
[epu@da.sccgov.org](mailto:epu@da.sccgov.org)

Gary Lieberstein, District Attorney  
Napa County  
931 Parkway Mall  
Napa, CA 94559  
[CEPD@countyofnapa.org](mailto:CEPD@countyofnapa.org)

Stephan R. Passalacqua, District Attorney  
Sonoma County  
600 Administration Drive, Rm. 212J  
Santa Rosa, CA 95403  
[jbarnes@sonoma-county.org](mailto:jbarnes@sonoma-county.org)

Phillip J. Cline, District Attorney  
Tulare County  
221 S. Mooney Avenue, Rm. 224  
Visalia, CA 93291  
[Prop65@co.tulare.ca.us](mailto:Prop65@co.tulare.ca.us)

Paul E. Zellerbach, District Attorney  
Riverside County  
4075 Main Street  
Riverside, CA 92501  
[Prop65@rivcoda.org](mailto:Prop65@rivcoda.org)

Gregory D. Totten, District Attorney Ventura  
County  
800 South Victoria Avenue  
Ventura, CA 93009  
[daspecialops@ventura.org](mailto:daspecialops@ventura.org)

Jeff W. Reising, District Attorney  
Yolo County  
301 Second Street  
Woodland, CA 95695  
[cfepd@yolocounty.org](mailto:cfepd@yolocounty.org)

Gregory Alker, Assistant District Attorney  
San Francisco County  
732 Brannan Street  
San Francisco, CA 94103  
[gregory.alker@sfgov.org](mailto:gregory.alker@sfgov.org)

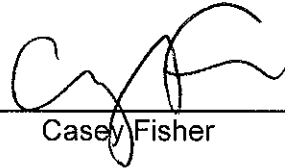
Dije Ndreu, Deputy District Attorney  
Monterey County  
1200 Aguajito Road  
Monterey, CA 93940  
[Prop65DA@co.monterey.ca.us](mailto:Prop65DA@co.monterey.ca.us)

Anne Marie Schubert, District Attorney  
Sacramento County  
901 G Street  
Sacramento, CA 95814  
[Prop65@sacda.org](mailto:Prop65@sacda.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 January 13, 2016, at San Francisco, California.

Signed: \_\_\_\_\_



Casey Fisher

## 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

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San Andreas, CA 95249

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346 Fifth Street, Suite 101  
Colusa, CA 95932

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Crescent City, CA 95531

District Attorney of El Dorado  
County  
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Placerville, CA 95667

District Attorney of Fresno County  
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Fresno, CA 93721

District Attorney of Glenn County  
P.O. Box 430  
Willows, CA 95988

District Attorney of Humboldt County  
825 5th Street  
Eureka, CA 95501

District Attorney of Imperial County  
939 Main Street, Ste. 102  
El Centro, CA 92243

District Attorney of Inyo County  
P.O. Drawer D  
Independence, CA 93526

District Attorney of Kern County  
1215 Truxtun Avenue  
Bakersfield, CA 93301

District Attorney of Kings County  
1400 West Lacey Blvd.  
Hanford, CA 93230

District Attorney of Lake County  
255 N. Forbes Street  
Lakeport, CA 95453

District Attorney of Los Angeles  
County  
210 W. Temple Street, Ste. 1800  
Los Angeles, CA 90012-3210

District Attorney of Madera County  
209 West Yosemite Avenue  
Madera, CA 93637

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3501 Civic Center Drive, Rm. 130  
San Rafael, CA 94903

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P.O. Box 730  
Mariposa, CA 95338

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County  
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Ukiah, CA 95482

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2222 "M" Street  
Merced, CA 95340

District Attorney of Modoc County  
204 S. Court Street, Rm. 202  
Alturas, CA 96101-4020

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P.O. Box 617  
Bridgeport, CA 93546

District Attorney of Nevada County  
201 Commercial 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  
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Quincy, CA 95971

District Attorney of San Benito  
County  
419 Fourth Street, 2<sup>nd</sup> Fl.  
Hollister, CA 95023

District Attorney of San  
Bernardino County  
316 N. Mountain View Avenue  
San Bernardino, CA 92415

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County  
330 West Broadway, Ste. 1300  
San Diego, CA 92101

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County  
P.O. Box 990  
Stockton, CA 95202

District Attorney of San Luis  
Obispo County  
1050 Monterey Street, Rm. 450  
San Luis Obispo, CA 93408

District Attorney of San Mateo  
County  
400 County Center, 3<sup>rd</sup> Fl.  
Redwood City, CA 94063

District Attorney of Santa Cruz  
County  
701 Ocean Street, Rm. 200  
Santa Cruz, CA 95060

District Attorney of Santa  
Barbara County  
Attn: Jerry Lule-Jian  
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Santa Maria, CA 93454

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

District Attorney of Sierra County  
Courthouse  
100 Courthouse Sq., 2<sup>nd</sup> 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

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

Jeffrey Margulies  
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*Counsel for Mt. Baker Vapor LLC*

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Modesto, CA 95354

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Yuba City, CA 95991

District Attorney of Tehama County  
P.O. Box 519  
Red Bluff, CA 96080

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Sonora, CA 95370

District Attorney of Yuba County  
215 Fifth Street  
Marysville, CA 95901

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City Hall East  
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Los Angeles, CA 90012

San Diego City Attorney's Office  
1200 Third Avenue, Ste. 1620  
San Diego, CA 92101

San Francisco City Attorney's Office  
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1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102