

## NOTICE OF VIOLATION

### California Safe Drinking Water and Toxic Enforcement Act

#### Hexavalent Chromium Exposures Resulting From Metal Processing

August 11, 2017

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:  
  
**Lubeco, Inc.**  
6859 Downey Avenue  
Long Beach, CA 90805
- Time Period of Exposure: The violations have been occurring since at least October 15, 2016, and are continuing up through the present. There is a substantial threat of ongoing and future violations unless and until the violator abates the threat of additional hexavalent chromium exposures from ongoing and future operations.
- 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 Involved: The name of the listed chemical involved in these violations is hexavalent chromium (referred to as “chromium (hexavalent compounds)” on the Proposition 65 list). Hexavalent chromium is a chemical that is known to cause cancer. Exposures to hexavalent chromium are occurring at the location described below.
- Location of the Exposures: The specific location of the exposures is the neighborhood surrounding Lubeco, Inc.’s facility located at 6859 Downey Avenue, Long Beach, CA 90805 (the “Facility”). The exposures occur at all locations within a 0.6 mile radius of the Facility.

- Description of Exposure: This Notice addresses environmental exposures to hexavalent chromium. These exposures are caused by the alleged violator's operations, which process and treat metal using a variety of methods. The alleged violator's operations release hexavalent chromium into the air, exposing residents living and working within the Long Beach neighborhood described above to hexavalent chromium. The primary route of exposure for the violations is inhalation when residents inhale the air that has been contaminated with the hexavalent chromium released from the Facility operated by the alleged violator. No clear and reasonable warning is provided regarding the carcinogenic hazards of hexavalent chromium.

#### **Resolution of Noticed Claims:**

Based on the allegations set forth in this Notice, CEH intends to bring a citizen enforcement lawsuit against the alleged violator unless such violator agrees in a binding written instrument to: (1) provide clear and reasonable warnings; (2) immediately abate the threat of additional hexavalent chromium exposures; and (3) pay an appropriate civil penalty based on the factors enumerated in California Health and Safety Code Section 25249.7(b). If the 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 the 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 hexavalent chromium releases from the alleged violator's operations, actual or potential exposures to hexavalent chromium from the alleged violator's operations, efforts to comply with Proposition 65, and communications with any person relating to actual or potential exposures to hexavalent chromium from the alleged violator's operations.

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).

**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.

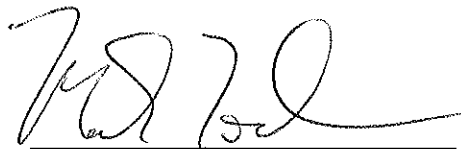
2. I am an attorney with the Lexington Law Group, and I represent the noticing party, the Center for Environmental Health.

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.

August 11, 2017



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 [aklompus@lexlawgroup.com](mailto:aklompus@lexlawgroup.com).

On August 11, 2017, 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.***

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on August 11, 2017, at San Francisco, California.

Signed:

  
Adriana Klompus

## **SERVICE LIST**

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

Los Angeles City Attorney's Office  
City Hall East  
200 N. Main Street, Rom. 800  
Los Angeles, CA 90012

Steven Rossi, President\*  
Lubeco, Inc.  
6859 Downey Avenue  
Long Beach, CA 90805