

NOTICE OF VIOLATION

California Safe Drinking Water and Toxic Enforcement Act

1,4-Dioxane in Shampoo, Shower Gel, Body Wash & Lotion

October 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:

- Violators: The names and addresses of the violators are identified on the attached Exhibit 1.
- Time Period of Exposure: The violations have been occurring since at least October 11, 2014, 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 1,4-Dioxane. Exposures to 1,4-Dioxane occur from use of the products identified in this Notice.
- Types of Products: The specific types of products causing these violations are shampoo, shower gel, body wash, and lotion. Non-exclusive examples of these specific types of products are identified on the attached Exhibit 1. Further limitations of these types of products as to each alleged violator are also identified on the attached Exhibit 1.
- Description of Exposure: This Notice addresses consumer exposures to 1,4-Dioxane. Use of the products subject to this Notice results in human exposures to 1,4-Dioxane. The products contain 1,4-Dioxane. The routes of exposure for the violations include dermal absorption, inhalation, and ingestion by consumers. These exposures occur through the reasonably foreseeable use of the products when, for example, individuals apply the products to their hair, scalp, and/or skin.

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 1,4-Dioxane.

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 or reformulate such products to eliminate the 1,4-Dioxane 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 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 the presence or potential presence of 1,4-Dioxane in shampoo, shower gel, body wash, and/or lotion; purchase and sales information for such products; efforts to comply with Proposition 65 with respect to such products; communications with any person relating to the presence or potential presence of 1,4-Dioxane in such products; and representative exemplars of each lot of each variety of any such product sold by each alleged violator since one year prior to the date of this Notice through the date of any trial of the claims alleged in 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 at 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 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.

October 11, 2017



Mark N. Todzo
Attorney for CENTER FOR
ENVIRONMENTAL HEALTH

EXHIBIT 1
October 11, 2017 Notice of Violation
1,4-Dioxane in Shampoo, Shower Gel, Body Wash & Lotion

Names and Addresses of Responsible Parties	Product Type	Non-Exclusive Examples of the Products
<p style="text-align: center;">Costco Wholesale Corporation 999 Lake Drive Issaquah, WA 98027</p>	<p style="text-align: center;">Shower Gel sold by Johnson & Johnson and Johnson & Johnson Consumer Inc.</p>	<p style="text-align: center;">Neutrogena Rainbath Refreshing Shower & Bath Gel Item No. 414510 SKU No. 0-70501-04145-1</p>
<p style="text-align: center;">CVS Pharmacy, Inc. One CVS Drive Woonsocket, RI 02895</p>	<p style="text-align: center;">Shampoo sold by (1) L'Oreal USA, Inc. (2) Redken 5th Avenue N.Y.C. LLC, (3) Henkel Corporation, (4) Henkel Consumer Goods, Inc., (5) Dessange Group North America, Inc., and (6) Dessange USA, Inc.</p>	<p style="text-align: center;">Matrix Biolage Colorlast Orchid Shampoo SKU No. 0-90174-49127-8</p>
		<p style="text-align: center;">Redken 5th Avenue NYC Extreme Shampoo SKU No. 0-80174-08821-8</p>
		<p style="text-align: center;">Schwarzkopf Gliss Hair Repair with Liquid Keratin Ultra Moisture Shampoo SKU No. 0-17000-15621-7</p>
		<p style="text-align: center;">Dessange Paris Nutrition Elixir Deep Nourishing System Shampoo SKU No. 0-75285-01410-3</p>
<p style="text-align: center;">Dessange Group North America, Inc. 500 Cummings Center Suite 1100 Beverly, MA 01915</p> <p style="text-align: center;">Dessange USA, Inc. 500 Cummings Center Suite 1100 Beverly, MA 01915</p>	<p style="text-align: center;">Shampoo</p>	<p style="text-align: center;">Dessange Paris Nutrition Elixir Deep Nourishing System Shampoo SKU No. 0-75285-01410-3</p>
<p style="text-align: center;">Fresh, Inc. 130 5th Avenue, 10th Floor New York, NY 10011</p>	<p style="text-align: center;">Shower Gel</p>	<p style="text-align: center;">Fresh Sugar Lychee Bath & Shower Gel SKU No. 8-09280-01833-6</p>

<p>Henkel Corporation One Henkel Way Rocky Hill, CT 06067</p> <p>Henkel Consumer Goods, Inc. 7201 E. Henkel Way Scottsdale, AZ 85255</p>	<p>Shampoo sold under the Schwarzkopf brand</p>	<p>Schwarzkopf Gliss Hair Repair with Liquid Keratin Ultra Moisture Shampoo SKU No. 0-17000-15621-7</p>
<p>Johnson & Johnson One Johnson & Johnson Plaza New Brunswick, NJ 08933</p> <p>Johnson & Johnson Consumer Inc. One Johnson & Johnson Plaza New Brunswick, NJ 08933</p>	<p>Shower Gel sold under the Neutrogena brand</p>	<p>Neutrogena Rainbath Refreshing Shower & Bath Gel Item No. 414510 SKU No. 0-70501-04145-1</p>
<p>L'Oreal USA, Inc. 10 Hudson Yards New York, NY 10001</p>	<p>Shampoo sold under the Matrix Biolage brand</p>	<p>Matrix Biolage Colorlast Orchid Shampoo SKU No. 0-90174-49127-8</p>
<p>L'Oreal USA, Inc. 10 Hudson Yards New York, NY 10001</p> <p>The Body Shop International PLC Watersmead Littlehampton West Sussex, BN17 6LS United Kingdom</p>	<p>Shower Gel and Lotion sold under The Body Shop brand</p>	<p>The Body Shop Wild Argan Oil Shower Gel SKU No. 5-028197-478247</p>
		<p>The Body Shop Mango Fresh Body Sorbet SKU No. 5-028197-524869</p>
<p>L'Oreal USA, Inc. 10 Hudson Yards New York, NY 10001</p> <p>Redken 5th Avenue N.Y.C. LLC 10 Hudson Yards New York, NY 10001</p>	<p>Shampoo sold under the Redken brand</p>	<p>Redken 5th Avenue NYC Extreme Shampoo SKU No. 0-80174-08821-8</p>
<p>MZB Accessories, LLC 29-76 Northern Blvd. Long Island City, NY 11101</p>	<p>Shampoo and Body Wash</p>	<p>Disney Frozen Frosted Berry Scented 3-in-1 Body Wash, Shampoo & Conditioner SKU No. 6-92237-08481-8</p>

<p>Sephora USA, Inc. 525 Market Street, 32nd Floor San Francisco, CA 94105</p>	<p>Shower Gel sold by Fresh, Inc.</p>	<p>Fresh Sugar Lychee Bath & Shower Gel SKU No. 8-09280-01833-6</p>
<p>Soap & Glory USA LLC 108 Wilmot Road Deerfield, IL 60015</p> <p>Soap & Glory Limited 1 Thane Road West Nottingham, NG2 3AA United Kingdom</p>	<p>Shower Gel</p>	<p>Soap & Glory Clean On Me Creamy Clarifying Shower Gel SKU No. 5-000167-175011</p>
<p>Ulta Salon, Cosmetics & Fragrance, Inc. 1000 Remington Blvd. Suite 120 Bolingbrook, IL 60440</p>	<p>Shower Gel sold by Soap & Glory USA LLC and Soap & Glory Limited</p>	<p>Soap & Glory Clean On Me Creamy Clarifying Shower Gel SKU No. 5-000167-175011</p>

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.

On October 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.

Also on this date, I transmitted via electronic mail the documents listed above to the electronic mail addresses set forth below at 2:06p.m. on October 11, 2017:

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

Michelle Latimer, Program Coordinator
Lassen County
220 S. Lassen Street
Susanville, CA 96130
mlatimer@co.lassen.ca.us

Yen Dang
Supervising Deputy District Attorney
Santa Clara County
70 West Hedding Street, West Wing
San Jose, CA 95110
epu@da.sccgov.org

Allison Haley, District Attorney
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931 Parkway Mall
Napa, CA 94559
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600 Administration Drive, Rm. 212J
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Prop65@co.tulare.ca.us

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Gregory D. Totten, District Attorney Ventura
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Ventura, CA 93009
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Jeff W. Reisig, District Attorney
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301 Second Street
Woodland, CA 95695
cfepd@yolocounty.org

Gregory Alker, Assistant District Attorney
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732 Brannan Street
San Francisco, CA 94103
gregory.alker@sfgov.org

Dije Ndreu, Deputy District Attorney
Monterey County
1200 Aguajito Road
Monterey, CA 93940
Prop65DA@co.monterey.ca.us

Anne Marie Schubert, District Attorney
Sacramento Country
901 G Street
Sacramento, CA 95814
Prop65@sacda.org

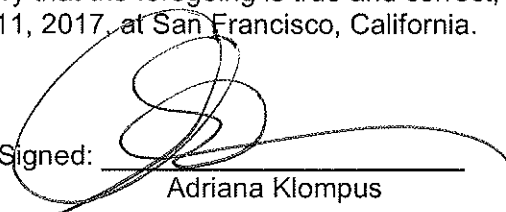
Tori Verber Salazar, District Attorney
San Joaquin County
222 E. Weber Avenue, Room 202
Stockton, CA 95202
DACConsumer.Environmental@sjcda.org

Eric J. Dobroth, Deputy District Attorney
San Luis Obispo County
County Government Center Annex, 4th Floor
San Luis Obispo, CA 93408
edobroth@co.slo.ca.us

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 October 11, 2017, at San Francisco, California.

Signed: _____


Adriana Klompus

SERVICE LIST

District Attorney of Alameda County 1225 Fallon Street, Rm. 900 Oakland, CA 94612	District Attorney of Kern County 1215 Truxtun Avenue Bakersfield, CA 93301	District Attorney of Placer County 10810 Justice Center Drive, Ste. 240 Roseville, CA 95678
District Attorney of Alpine County P.O. Box 248 Markleeville, CA 96120	District Attorney of Kings County 1400 West Lacey Blvd. Hanford, CA 93230	District Attorney of Plumas County 520 Main Street, Rm. 404 Quincy, CA 95971
District Attorney of Amador County 708 Court Street, Ste. 202 Jackson, CA 95642	District Attorney of Lake County 255 N. Forbes Street Lakeport, CA 95453	District Attorney of San Benito County 419 Fourth Street, 2 nd Fl. Hollister, CA 95023
District Attorney of Butte County Administration Building 25 County Center Drive Oroville, CA 95965	District Attorney of Los Angeles County Hall of Justice 211 W. Temple Street, Ste. 1200 Los Angeles, CA 90012-3210	District Attorney of San Bernardino County 316 N. Mountain View Avenue San Bernardino, CA 92415
District Attorney of Calaveras County 891 Mountain Ranch Road San Andreas, CA 95249	District Attorney of Madera County 209 West Yosemite Avenue Madera, CA 93637	District Attorney of San Diego County 330 West Broadway, Ste. 1300 San Diego, CA 92101
District Attorney of Colusa County 346 Fifth Street, Suite 101 Colusa, CA 95932	District Attorney of Marin County 3501 Civic Center Drive, Rm. 130 San Rafael, CA 94903	District Attorney of San Mateo County 400 County Center, 3 rd Fl. Redwood City, CA 94063
District Attorney of Del Norte County 450 H Street, Ste. 171 Crescent City, CA 95531	District Attorney of Mariposa County P.O. Box 730 Mariposa, CA 95338	District Attorney of Santa Cruz County 701 Ocean Street, Rm. 200 Santa Cruz, CA 95060
District Attorney of El Dorado County 515 Main Street Placerville, CA 95667	District Attorney of Mendocino County P.O. Box 1000 Ukiah, CA 95482	District Attorney of Santa Barbara County 1112 Santa Barbara Street Santa Barbara, CA 93101
District Attorney of Fresno County 2220 Tulare Street, Ste. 1000 Fresno, CA 93721	District Attorney of Merced County 2222 "M" Street Merced, CA 95340	District Attorney of Shasta County 1355 West Street Redding, CA 96001
District Attorney of Glenn County P.O. Box 430 Willows, CA 95988	District Attorney of Modoc County 204 S. Court Street, Rm. 202 Alturas, CA 96101-4020	District Attorney of Sierra County Courthouse 100 Courthouse Sq., 2 nd Fl. Downieville, CA 95936
District Attorney of Humboldt County 825 5th Street Eureka, CA 95501	District Attorney of Mono County P.O. Box 617 Bridgeport, CA 93546	District Attorney of Siskiyou County P.O. Box 986 Yreka, CA 96097
District Attorney of Imperial County 939 Main Street, Ste. 102 El Centro, CA 92243	District Attorney of Nevada County 201 Commercial Street Nevada City, CA 95959	
District Attorney of Inyo County P.O. Drawer D Independence, CA 93526	District Attorney of Orange County 401 Civic Center Drive West Santa Ana, CA 92701	

District Attorney of Solano County 675 Texas Street, Ste. 4500 Fairfield, CA 94533	W. Craig Jelinek, CEO* Costco Wholesale Corporation P.O. Box 35005 Seattle, WA 98124	Frederic Roze, CEO* L'Oreal USA, Inc. 10 Hudson Yards New York, NY 10001
District Attorney of Stanislaus County 832 12th Street, Ste. 300 Modesto, CA 95354	W. Craig Jelinek, CEO* Costco Wholesale Corporation 999 Lake Drive Issaquah, WA 98027	President* The Body Shop International PLC Watersmead Littlehampton West Sussex, BN17 6LS United Kingdom
District Attorney of Sutter County 446 Second Street Yuba City, CA 95991	Helena Foulkes, CEO* CVS Pharmacy, Inc. One CVS Drive Woonsocket, RI 02895	President* Redken 5th Avenue N.Y.C. LLC 10 Hudson Yards New York, NY 10001
District Attorney of Tehama County P.O. Box 519 Red Bluff, CA 96080	Linda Chadwick, CEO* Dessange Group North America, Inc. 500 Cummings Center Suite 1100 Beverly, MA 01915	President* Redken 5th Avenue N.Y.C. LLC c/o Corporation Service Company 80 State Street Albany, NY 12207
District Attorney of Trinity County P.O. Box 310 11 Court Street Weaverville, CA 96093	Linda Chadwick, CEO* Dessange USA, Inc. 500 Cummings Center Suite 1100 Beverly, MA 01915	President* MZB Accessories, LLC 29-76 Northern Blvd. Long Island City, NY 11101
District Attorney of Tuolumne County 423 N. Washington Street Sonora, CA 95370	President* Fresh, Inc. 130 5 th Avenue, 10 th Floor New York, NY 10011	Calvin McDonald, CEO* Sephora USA, Inc. 525 Market Street, 32nd Floor San Francisco, CA 94105
District Attorney of Yuba County 215 Fifth Street Marysville, CA 95901	President* Fresh, Inc. 19 E. 57 th Street New York, NY 10022	President* Soap & Glory USA LLC 108 Wilmot Road Deerfield, IL 60015
Los Angeles City Attorney's Office City Hall East 200 N. Main Street, Rm. 800 Los Angeles, CA 90012	Jerry Perkins, CEO* Henkel Corporation One Henkel Way Rocky Hill, CT 06067	President* Soap & Glory Limited 1 Thane Road West Nottingham, NG2 3AA United Kingdom
San Diego City Attorney's Office 1200 Third Avenue, Ste. 1620 San Diego, CA 92101	Jens-Martin Schwaerzler, CEO* Henkel Consumer Goods, Inc. 7201 E. Henkel Way Scottsdale, AZ 85255	Mary N. Dillon, CEO* Ulta Salon, Cosmetics & Fragrance, Inc. 1000 Remington Blvd. Suite 120 Bolingbrook, IL 60440
San Francisco City Attorney's Office City Hall, Room 234 1 Dr. Carlton B. Goodlett Place San Francisco, CA 94102	Alex Gorsky, CEO* Johnson & Johnson One Johnson & Johnson Plaza New Brunswick, NJ 08933	
San Jose City Attorney's Office 200 East Santa Clara Street San Jose, CA 95113	President* Johnson & Johnson Consumer Inc. One Johnson & Johnson Plaza New Brunswick, NJ 08933	
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		