

# 60-DAY NOTICE OF VIOLATION

SENT IN COMPLIANCE WITH CALIFORNIA HEALTH & SAFETY CODE §25249.7(d)

NOVEMBER 3, 2004

**To:** Steven A. Burd, President – Safeway Inc.

California Attorney General's Office;  
District Attorney's Office for 58 Counties;  
City Attorneys for San Francisco, San Diego, San Jose, Sacramento and Los Angeles;

**FROM:** Whitney R. Leeman

## I. INTRODUCTION

My name is Whitney R. Leeman. I hold a Doctor of Philosophy degree in Environmental Engineering. I am a citizen of the State of California acting in the interest of the general public. I seek to promote awareness of exposures to toxic chemicals in products sold in California and, if possible, to improve human health by reducing hazardous substances contained in such items. This Notice is provided to the parties listed above pursuant to California Health & Safety Code §25249.6 *et seq.* ("Proposition 65"). As noted above, notice is being provided to the violator, Safeway Inc. (the "Violator"). The violations covered by this Notice consist of the product exposures, routes of exposures, and types of harm potentially resulting from exposure to the following toxic chemical or chemicals ("listed chemicals"):

<i>Listed Chemicals</i>	<i>Routes of Exposure</i>	<i>Types of Harm</i>	<i>Product Exposures</i>
Polychlorinated dibenzo- <i>p</i> -dioxins	Ingestion	Cancer	See Section VI. Exhibit A
Polychlorinated biphenyls	Ingestion	Birth Defects and Other Reproductive Harm	See Section VI. Exhibit A

## II. NATURE OF ALLEGED VIOLATION (CONSUMER PRODUCT EXPOSURE)

The product category exposing consumers to listed chemicals is *Beef Liver Products*. The specific type or types of products (hereafter the "products") that are causing consumer exposures in violation of Proposition 65 (and that are covered by this notice) are listed on Exhibit A in section VI below. The Violator's sales of these beef liver products have been occurring from at least November 3, 2001 to the present. As a result of the sales of these products, exposures to the listed chemicals have been occurring without clear and reasonable warnings as required by Proposition 65. Without proper warnings regarding the toxic effect of exposure to the listed chemicals in the products, California citizens lack the information necessary to make informed decisions on whether and how to eliminate (or reduce) the risk of exposure from reasonably foreseeable use of the products.

California consumers, through the act of consuming the products, are exposed to the listed chemicals. By way of example but not limitation, exposures occur when California citizens eat, sample or otherwise consume the products. These acts cause consumers to be exposed through the routine consumption of the parts or portions of the products containing the listed chemicals. People likely to be exposed include both children and adults.

**III. CONTACT INFORMATION**

Please direct all questions concerning this notice to my counsel at the following address:

Clifford A. Chanler  
 Stephen S. Sayad  
 Chanler Law Group  
 655 Redwood Highway, Suite 216  
 Mill Valley, California 94941  
 Telephone: (415) 380-9222  
 Facsimile: (415) 380-9223

**IV. PROPOSITION 65 INFORMATION**

For general information concerning the provisions of Proposition 65, please feel free to contact the Office of Environmental Health Hazard Assessment's ("OEHHA") Proposition 65 Implementation Office at (916) 445-6900. For the Violator's reference, I have attached a copy of "Proposition 65: A Summary" which has been prepared by OEHHA.

**V. ADDITIONAL NOTICE INFORMATION**

THIS INFORMATION IS *NOT* REQUIRED TO BE PROVIDED UNDER CAL. CODE REGS., TITLE 22 § 12903(b)(4).

Identified below are specific examples of the type of offending food products recently purchased and witnessed as being available for purchase or consumption in California. Based on publicly available information, the retailers, distributors and/or manufacturers of the products at issue are also provided below. Dr. Leeman believes and alleges that the sale of the offending products has also occurred without the requisite warning at other locations including, but not limited to, transactions made over-the-counter, between business-to-business, through the internet and/or via a catalogue by the Violator.

<i>Products</i>	<i>Retailer(s)</i>	<i>Manufacturer(s)/Distributors</i>
Skylark Sliced, Skinned, Deveined Beef Liver (#201771 801807, #201771 601728 and #201771 001764)	Safeway Inc.	Skylark Meats Inc.

**VI. EXHIBIT A**

<i>Products</i>	<i>Such As*</i>	<i>Toxins</i>
Beef Liver	Skylark Sliced, Skinned, Deveined Beef Liver (#201771 801807, #201771 601728 and #201771 001764)	Polychlorinated dibenzo- <i>p</i> -dioxins
Beef Liver	Skylark Sliced, Skinned, Deveined Beef Liver (#201771 801807, #201771 601728 and #201771 001764)	Polychlorinated biphenyls

\*The specifically identified example of the type of food products subject to this Notice are for the benefit of each recipient to assist in its investigation of, among other things, the magnitude of potential exposure to the listed chemicals from other items within the product category listed in Exhibit A. It is important to note that this example is not meant to be an exhaustive or comprehensive identification of each specific offending product of the type listed under Products in Exhibit A. Further, it is this citizen's position that the alleged violator is obligated to continue to conduct a good faith investigation into other specific products within the type or category described above that may have been manufactured, distributed, sold or stored during the relevant period so as to ensure that the requisite toxic warnings are provided to California citizens prior to purchase.

## PROOF OF SERVICE

I, the undersigned, declare under penalty of perjury:

I am a citizen of the United States, over the age of 18 years, and not a party to the within action; my business address is 11501 Dublin Blvd., Suite 200, Dublin, CA 94568.

On November 3, 2004, I served the following document:

**60-DAY NOTICE OF VIOLATION SENT IN COMPLIANCE WITH  
HEALTH & SAFETY CODE §25249.7(d);**

**PROPOSITION 65: A SUMMARY;**

**CERTIFICATE OF MERIT; AND**

**CERTIFICATE OF MERIT ATTACHMENTS (SERVED ONLY ON THE  
ATTORNEY GENERAL)**

served on the Violator listed below via 2<sup>nd</sup> Day Air Service by placing a true and correct copy in each sealed envelope, addressed to the Violator and placing such envelope in a Federal Express Drop-Off Box:

Steven A. Burd, President  
Safeway Inc.  
5918 Stoneridge Mall Road  
Pleasanton, CA 94588  
Tel. (925) 467-3000

as well as providing copies of the notice to the public enforcers by placing a true and correct copy in a sealed envelope, addressed to each party listed below, and served as follows:

<i>Via 2<sup>nd</sup> Day Air Service by placing such envelope in a Federal Express Drop-Off Box:</i>	The Attorney General of the State of California;
<i>By placing each envelope in a United States Postal Service mailbox, first class postage prepaid:</i>	The District Attorney for Each of the 58 counties in California; and  The City Attorney for Los Angeles, San Diego, San Jose, San Francisco and Sacramento;

*A list of addresses for each of these recipients is attached.*

Executed on November 3, 2004, at Dublin, California.

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## SERVICE LIST

The Honorable Tom Orloff  
Alameda County District Attorney  
1225 Fallon Street, Room 900  
Oakland, CA 94612

The Honorable William Richmond  
Alpine County District Attorney  
P.O. Box 248  
Markleeville, CA 96120

The Honorable Todd Riebe  
Amador County District Attorney  
708 Court Street, #202  
Jackson, CA 95642

The Honorable Michael Ramsey  
Butte County District Attorney  
25 County Center Drive,  
Administration Building  
Oroville, CA 95965

The Honorable Jeffrey Tuttle  
Calaveras County District Attorney  
891 Mountain Ranch Road  
San Andreas, CA 95249

The Honorable John R. Poyner  
Colusa County District Attorney  
547 Market Street  
Colusa, CA 95932

The Honorable Robert J. Kochly  
Contra Costa County District Attorney  
725 Court Street, 4<sup>th</sup> Floor, Rm. 402  
Martinez, CA 94553

The Honorable Michael Riese  
Del Norte County District Attorney  
450 H Street  
Crescent City, CA 95531

The Honorable Gary Lacy  
El Dorado County District Attorney  
515 Main Street  
Placerville, CA 95667

The Honorable Elizabeth Egan  
Fresno County District Attorney  
2220 Tulare Street, #1000  
Fresno, CA 93721

The Honorable Robert Holzapfel  
Glenn County District Attorney  
P.O. Box 430  
Willows, CA 95988

The Honorable Paul Gallegos  
Humboldt County District Attorney  
825 5<sup>th</sup> Street  
Eureka, CA 95501

The Honorable Gilbert Otero  
Imperial County District Attorney  
939 West Main Street  
El Centro, CA 92243

The Honorable Arthur Maillet  
Inyo County District Attorney  
P.O. Drawer D  
Independence, CA 93526

The Honorable Edward R. Jagels  
Kern County District Attorney  
1215 Truxtun Avenue  
Bakersfield, CA 93301

The Honorable Ronald Calhoun  
Kings County District Attorney  
1400 West Lacey Boulevard  
Hanford, CA 93230

The Honorable Gerhard Luck  
Lake County District Attorney  
255 North Forbes Street  
Lakeport, CA 95453

The Honorable Robert Burns  
Lassen County District Attorney  
220 S. Lassen Street, Ste. 8  
Susanville, CA 96130

The Honorable Steve Cooley  
Los Angeles County District Attorney  
210 West Temple Street  
Los Angeles, CA 90012

The Honorable Ernest LiCalsi  
Madera County District Attorney  
209 West Yosemite Avenue  
Madera, CA 93637

The Honorable Paula Camena  
Marin County District Attorney  
3501 Civic Center Drive, Room 130  
San Rafael, CA 94903

The Honorable Robert Brown  
Mariposa County District Attorney  
P.O. Box 730  
Mariposa, CA 95338

The Honorable Norman Vroman  
Mendocino County District Attorney  
P.O. Box 1000  
Ukiah, CA 95482

The Honorable Gordon Spencer  
Merced County District Attorney  
2222 M Street  
Merced, CA 95340

The Honorable Jordan Funk  
Modoc County District Attorney  
204 S. Court Street, Room 202  
Alturas, CA 96101

The Honorable George Booth  
Mono County District Attorney  
P.O. Box 617  
Bridgeport, CA 93517

The Honorable Dean Flippo  
Monterey County District Attorney  
240 Church Street, #101  
Salinas, CA 93901

The Honorable Gary Lieberstein  
Napa County District Attorney  
931 Parkway Mall  
Napa, CA 94559

The Honorable Michael Ferguson  
Nevada County District Attorney  
201 Church Street, Suite 8  
Nevada City, CA 95959

The Honorable Tony Rackauckas  
Orange County District Attorney  
401 Civic Center Drive West  
Santa Ana, CA 92701

The Honorable Bradford Fenocchio  
Placer County District Attorney  
11562 B Avenue  
Auburn, CA 95603

The Honorable Jeff Cunan  
Plumas County District Attorney  
520 Main Street, Room 404  
Quincy, CA 95971

The Honorable Grover Trask II  
Riverside County District Attorney  
4075 Main Street  
Riverside, CA 92501

The Honorable Jan Scully  
Sacramento County District Attorney  
901 G Street  
Sacramento, CA 95814

The Honorable John Sarsfield  
San Benito County District Attorney  
419 4<sup>th</sup> Street, Second Floor  
Hollister, CA 95203

The Honorable Michael Ramos  
San Bernardino County District Attorney  
316 N. Mountain View Avenue  
San Bernardino, CA 92415

The Honorable Bonnie Dumanis  
San Diego County District Attorney  
330 W. Broadway Street, Suite 1320  
San Diego, CA 92101

The Honorable Kamala Harris  
San Francisco County District Attorney  
880 Bryant Street, Room 325  
San Francisco, CA 94103

The Honorable John Phillips  
San Joaquin County District Attorney  
P.O. Box 990  
Stockton, CA 95201

The Honorable Gerald Shea  
San Luis Obispo County District Attorney  
1050 Monterey Street, Room 450  
San Luis Obispo, CA 93408

The Honorable James Fox  
San Mateo County District Attorney  
400 County Center, Third Floor  
Redwood City, CA 94063

The Honorable Thomas Sneddon, Jr.  
Santa Barbara County District Attorney  
1105 Santa Barbara Street  
Santa Barbara, CA 93101

The Honorable George Kennedy  
Santa Clara County District Attorney  
70 West Hedding Street, West Wing  
San Jose, CA 95110

The Honorable Bob Lee  
Santa Cruz County District Attorney  
701 Ocean Street, Room 200  
Santa Cruz, CA 95060

The Honorable Gerald Benito  
Shasta County District Attorney  
1525 Court Street, Third Floor  
Redding, CA 96001

The Honorable Lawrence Allen  
Sierra County District Attorney  
P.O. Box 457  
Downieville, CA 95936

The Honorable Peter Knoll  
Siskiyou County District Attorney  
P.O. Box 986  
Yreka, CA 96097

The Honorable David Paulson  
Solano County District Attorney  
600 Union Avenue  
Fairfield, CA 94533

The Honorable Stephan Passalacqua  
Sonoma County District Attorney  
600 Administration Drive, Room 212J  
Santa Rosa, CA 95403

The Honorable James Brazelton  
Stanislaus County District Attorney  
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Modesto, CA 95353

The Honorable Carl Adams  
Sutter County District Attorney  
446 Second Street  
Yuba City, CA 95991

The Honorable Gregg Cohen  
Tehama County District Attorney  
P.O. Box 519  
Red Bluff, CA 96080

The Honorable David Cross  
Trinity County District Attorney  
P.O. Box 1310  
Weaverville, CA 96093

The Honorable Phillip Cline  
Tulare County District Attorney  
221 South Mooney Boulevard, Suite 224  
Visalia, CA 93291

The Honorable Donald Segerstrom, Jr  
Tuolumne County District Attorney  
423 No. Washington Street  
Sonora, CA 95370

The Honorable Gregory Totten  
Ventura County District Attorney  
800 South Victoria Avenue  
Ventura, CA 93009

The Honorable David C. Henderson  
Yolo County District Attorney  
301 Second Street  
Woodland, CA 95695

The Honorable Patrick McGrath  
Yuba County District Attorney  
215 Fifth Street  
Marysville, CA 95901

The Honorable Rockard Delgado  
Office of the City Attorney, Los Angeles  
200 North Main Street  
Los Angeles, CA 90012

The Honorable Casey Gwinn  
Office of the City Attorney, San Diego  
1200 Third Avenue, 3<sup>rd</sup> Floor  
San Diego, CA 92101

The Honorable Samuel Jackson  
Office of the City Attorney, Sacramento  
980 Ninth Street, Tenth Floor  
Sacramento, CA 95814

The Honorable Dennis J. Herrera  
Office of the City Attorney, San Francisco  
City Hall, Room 234  
San Francisco, CA 94102

Office of the City Attorney, San Jose  
151 West Mission Street  
San Jose, CA 95110