NOTICE OF VIOLATION

California Safe Drinking Water
and Toxic Enforcement Act

4-methylimidazole (4-MEI)
in Carbonated Soft Drinks Containing Caramel Coloring

February 23, 2012

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, California, (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 listed on the attached Exhibit 1.
- Time Period of Exposure: The violations have been occurring since at least January 7, 2012, and are ongoing.
- 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 4-methylimidazole ("4-MEI"). Exposures to 4-MEI occur from use of the products identified in this Notice.
- Type of Product: The specific type of product causing these violations is carbonated soft drinks containing caramel coloring. Non-exclusive examples of this specific type of product are listed on the attached Exhibit 1.
- Description of Exposure: This Notice addresses consumer exposures to 4-MEI. Consumption of the products identified in this Notice results in human exposures to 4-MEI via ingestion. No clear and reasonable warning is provided with these products regarding the carcinogenic hazards associated with 4-MEI exposure.

Resolution of Noticed Claims:

- Based on the allegations set forth in this Notice, CEH intends to file a citizen enforcement lawsuit against each of the alleged violators unless such alleged violator enters into a binding written agreement to remedy the violations alleged herein by: (1) recalling products already sold; (2) reformulating such products to eliminate the 4-MEI exposure or taking appropriate measures to otherwise comply with Proposition 65; and (3) paying an appropriate civil penalty based on the factors enumerated in California

Health and Safety Code Section 25249.7(b). If any of the alleged violators is interested in resolving this dispute without resort to 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.

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

EXHIBIT 1
February 23, 2012 Notice of Violation
4-methylimidazole (4-MEI)
in Carbonated Soft Drinks Containing Caramel Coloring

Responsible Parties	Non-Exclusive Examples of the Products
The Coca-Cola Company One Coca-Cola Plaza, N.W. Atlanta, GA 30301	Coca-Cola Refresco
Cott Beverages Inc. 5519 W. Idlewild Ave Tampa FL 33634	Stars and Stripes Cola
Pepsi Beverages Company 1 Pepsi Way Somers, NY 10589 **PepsiCo, Inc.** 700 Anderson Hill Road Purchase, NY 10577	Pepsi Cola Special Import
Trader Joe's Company 800 South Shamrock Ave Monrovia, CA 91016	Trader Joe's Vintage Cola
Walgreen Company 200 Wilmot Road Deerfield, IL 60015	Nice! Refreshing Cola

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.

February 23, 2012

Mark N. Todzo
Attorney for the 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 pcarey@lexlawgroup.com.

On February 23, 2012, 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 5:09 p.m. on February 23, 2012:

Lon Wixson, Deputy District Attorney
Contra Costa County
900 Ward Street
Martinez, CA 94553
lwixson@contracostada.org

Karyn Sinunu-Towery,
Assistant District Attorney
Santa Clara County
70 West Hedding Street, West Wing
San Jose, CA 95110
epu@da.sccgov.org

Birgit Fladager, District Attorney
Stanislaus County
832 12th Street, Ste. 300
Modesto, CA 95354
Prop65@standa.org

Gary Lieberstein, District Attorney
Napa County
931 Parkway Mall
Napa, CA 94559
CEPD@countyofnapa.org

Dije Ndreu, Deputy District Attorney
Monterey County
230 Church Street, Bldg. 2
Salinas, CA 93901
Prop65DA@co.monterey.ca.us

Stephan R. Passalacqua, District Attorney
Sonoma County
600 Administration Drive, Rm. 212J
Santa Rosa, CA 95403
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

Gregory D. Totten, District Attorney Ventura County
800 South Victoria Avenue
Ventura, CA 93009
daspecialops@ventura.org

Rod Pacheco, District Attorney
Riverside County
4075 Main Street
Riverside, CA 92501
Prop65@rivcoda.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 February 23, 2012, at San Francisco, California.

Signed: Patrick Carey
Patrick Carey

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

District Attorney of Calaveras County
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 County
515 Main Street
Placerville, CA 95667

District Attorney of Fresno County
2220 Tulare Street, Ste. 1000
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 Lassen County
220 S. Lassen Street, Ste. 8
Susanville, CA 96130

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

District Attorney of Marin County
3501 Civic Center Drive, Rm. 130
San Rafael, CA 94903

District Attorney of Mariposa County
P.O. Box 730
Mariposa, CA 95338

District Attorney of Mendocino County
P.O. Box 1000
Ukiah, CA 95482

District Attorney of Merced County
2222 "M" Street
Merced, CA 95340

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

District Attorney of Mono County
P.O. Box 617
Bridgeport, CA 93546

District Attorney of Nevada County
110 Union 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
520 Main Street, Rm. 404
Quincy, CA 95971

District Attorney of Sacramento County
901 "G" Street
Sacramento, CA 95814

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

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

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

District Attorney of San Francisco County
850 Bryant Street, Rm. 325
San Francisco, CA 94103

District Attorney of San Joaquin 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, 3rd 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
312-D E. Cook Street
Santa Maria, CA 93454

District Attorney of Shasta County
1525 Court Street, 3rd Fl.
Redding, CA 96001-1632

District Attorney of Sierra County Courthouse
100 Courthouse Sq., 2nd Fl.
Downieville, CA 95936

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

District Attorney of Solano County
675 Texas Street, Ste. 4500
Fairfield, CA 94533

District Attorney of Sutter County
446 Second Street
Yuba City, CA 95991

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

District Attorney of Trinity County
P.O. Box 310
11 Court Street
Weaverville, CA 96093

District Attorney of Tuolumne County
423 N. Washington Street
Sonora, CA 95370

District Attorney of Yolo County
301 Second Street
Woodland, CA 95695

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

Los Angeles City Attorney's Office
City Hall East
200 N. Main Street, Rm. 800
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
City Hall, Room 234
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

San Jose City Attorney's Office
200 East Santa Clara Street
San Jose, CA 95113

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

Muhtar Kent, CEO*
The Coca-Cola Company
One Coca-Cola Plaza, N.W.
Atlanta, GA 30301

Frank E. Weise, CEO*
Cott Beverages Inc.
5519 W. Idlewild Ave
Tampa FL 33634

President*
Pepsi Beverages Company
1 Pepsi Way
Somers, NY 10589

Indra K. Nooyi, CEO*
PepsiCo, Inc.
700 Anderson Hill Road
Purchase, NY 10577

Dan T. Bane, CEO*
Trader Joe's Company
800 South Shamrock Ave
Monrovia, CA 91016

Gregory D. Wasson, President & CEO*
Walgreen Company
200 Wilmot Road
Deerfield, IL 60015