

NOTICE OF VIOLATION

California Safe Drinking Water and Toxic Enforcement Act

Acrylamide in Vegetable Chips and Vegetable-based Snack Products

August 28, 2015

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 address of the violators are identified on the attached Exhibit 1.
- Time Period of Exposure: The violations have been occurring since at least August 28, 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 acrylamide. Exposures to acrylamide occur from consumption of the products identified in this Notice.
- Types of Products: The specific types of products causing these violations are vegetable chips and vegetable-based snack products. Non-exclusive examples of these specific types of products are identified on the attached Exhibit 1.
- Description of Exposure: This Notice addresses consumer exposures to acrylamide. Consumption of the products identified in this Notice results in human exposures to acrylamide. The products contain acrylamide. The primary route of exposure for the violations is direct ingestion when consumers eat the products. These exposures occur in homes, workplaces and everywhere else throughout California where the products are consumed. No clear and reasonable warning is provided with these products regarding the carcinogenic hazards of acrylamide.

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 acrylamide 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 acrylamide in vegetable chips and vegetable-based snack products; 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 acrylamide in such products; and representative exemplars of each unit of any such products sold by the alleged violator in the year preceding this Notice.

Please direct any inquiries regarding this Notice to CEH's counsel Howard Hirsch at Lexington Law Group, 503 Divisadero Street, San Francisco, CA 94117, (415) 913-7800, hhirsch at lexlawgroup.com.

EXHIBIT 1
August 28, 2015 Notice of Violation
Acrylamide in Vegetable Chips and Vegetable-based Snack Products

Names and Addresses of Responsible Parties	Non-Exclusive Examples of the Products	Item or SKU # or Further Description
<p>KeHE Distributors, LLC 12740 Gran Bay Parkway W. Jacksonville, FL 32258</p> <p>KeHE Enterprises, LLC 900 N. Schmidt Road Romeoville, IL 60446</p> <p>KeHE Distributors, Inc. 1245 E. Diehl Road Suite 200 Naperville, IL 60563</p>	<p>Sensible Portions Garden Veggie Chips, Sea Salt</p>	<p>SKU No. 8-29515-30220-7</p>
<p>Mrs. Gooch's Natural Food Markets, Inc. 550 Bowie Street Austin, TX 78703</p> <p>Whole Foods Market California, Inc. 550 Bowie Street Austin, TX 78703</p>	<p>365 Everyday Value Veggie Chips</p>	<p>SKU No. 0-99482-40253-2</p>

CERTIFICATE OF MERIT
Health & Safety Code § 25249.7(d)

I, Howard Hirsch, 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.

August 28, 2015



Howard Hirsch
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 jbanister@lexlawgroup.com.

On August 28, 2015, 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 12:55 p.m. on August 28, 2015:

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

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

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

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

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

Paul E. Zellerbach, District Attorney
Riverside County
4075 Main Street
Riverside, CA 92501
Prop65@rivcoda.org

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

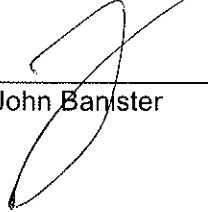
Jeff W. Reisig, District Attorney
Yolo County
301 Second Street
Woodland, CA 95695
cfepd@yolocounty.org

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 August 28, 2015, at San Francisco, California.

Signed: _____

John Banister



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 Orange County 401 Civic Center Drive West Santa Ana, CA 92701
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 Placer County 10810 Justice Center Drive, Ste. 240 Roseville, CA 95678
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 Plumas County 520 Main Street, Rm. 404 Quincy, CA 95971
District Attorney of Butte County Administration Building 25 County Center Drive Oroville, CA 95965	District Attorney of Lassen County 220 S. Lassen Street, Ste. 8 Susanville, CA 96130	District Attorney of Sacramento County 901 "G" Street Sacramento, CA 95814
District Attorney of Calaveras County 891 Mountain Ranch Road San Andreas, CA 95249	District Attorney of Los Angeles County 210 W. Temple Street, Ste. 1800 Los Angeles, CA 90012-3210	District Attorney of San Benito County 419 Fourth Street, 2 nd Fl. Hollister, CA 95023
District Attorney of Colusa County 547 Market Street, Ste. 102 Colusa, CA 95932	District Attorney of Madera County 209 West Yosemite Avenue Madera, CA 93637	District Attorney of San Bernardino County 316 N. Mountain View Avenue San Bernardino, CA 92415
District Attorney of Del Norte County 450 H Street, Ste. 171 Crescent City, CA 95531	District Attorney of Marin County 3501 Civic Center Drive, Rm. 130 San Rafael, CA 94903	District Attorney of San Diego County 330 West Broadway, Ste. 1300 San Diego, CA 92101
District Attorney of El Dorado County 515 Main Street Placerville, CA 95667	District Attorney of Mariposa County P.O. Box 730 Mariposa, CA 95338	District Attorney of San Francisco County 850 Bryant Street, Rm. 325 San Francisco, CA 94103
District Attorney of Fresno County 2220 Tulare Street, Ste. 1000 Fresno, CA 93721	District Attorney of Mendocino County P.O. Box 1000 Ukiah, CA 95482	District Attorney of San Joaquin County P.O. Box 990 Stockton, CA 95202
District Attorney of Glenn County P.O. Box 430 Willows, CA 95988	District Attorney of Merced County 2222 "M" Street Merced, CA 95340	District Attorney of San Luis Obispo County 1050 Monterey Street, Rm. 450 San Luis Obispo, CA 93408
District Attorney of Humboldt County 825 5th Street Eureka, CA 95501	District Attorney of Modoc County 204 S. Court Street, Rm. 202 Alturas, CA 96101-4020	District Attorney of San Mateo County 400 County Center, 3 rd Fl. Redwood City, CA 94063
District Attorney of Imperial County 939 Main Street, Ste. 102 El Centro, CA 92243	District Attorney of Mono County P.O. Box 617 Bridgeport, CA 93546	
District Attorney of Inyo County P.O. Drawer D Independence, CA 93526	District Attorney of Nevada County 201 Commercial Street Nevada City, CA 95959	

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

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

District Attorney of Santa Barbara
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Attn: Jerry Lule-Jian
312-D E. Cook Street
Santa Maria, CA 93454

San Francisco City Attorney's
Office
City Hall, Room 234
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

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., 2nd 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

President *
KeHE Distributors, LLC
12740 Gran Bay Parkway W.
Jacksonville, FL 32258

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Fairfield, CA 94533

President *
KeHE Enterprises, LLC
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Romeoville, IL 60446

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President *
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District Attorney of Tehama County
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President *
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550 Bowie Street
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District Attorney of Trinity County
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Weaverville, CA 96093

President *
Whole Foods Market California,
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Austin, TX 78703

District Attorney of Tuolumne County
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Sonora, CA 95370

District Attorney of Yuba County
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Marysville, CA 95901

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