

KURT BOLLIN LAW
1506 Oak Street-Unit D
South Pasadena, CA 91030

Sept. 16, 2015

NOTICE OF VIOLATION OF THE SAFE DRINKING WATER AND
TOXIC ENFORCEMENT ACT OF 1986 (California
Health and Safety Code §25249.5 et seq.)

NOTICE TO:
POST FOODS, LLC.,
POST HOLDINGS, INC., And
GENERAL MILLS, INC.
GENERAL MILLS SALES, INC., And
KELLOGGS USA, INC.

Priority Mail

TO THE PARTIES LISTED ON THE ATTACHED DISTRIBUTION LIST

Re: Ready to Eat Cereal Products — See Attachment

To: Mr. Robert V. Vitale	POST FOODS, LLC. AKA POST HOLDINGS, INC.
Mr. Kendall J. Powell	GENERAL MILLS, INC.
Mr. John A. Bryant	KELLOGG USA, INC.

Dear Sir:

The Noticing party RBC Four Co., LLC A California Limited Liability Company (the "Noticing Party") serves this Notice of Violation ("Notice") upon:

1. Post Foods, LLC., Post Holdings, Inc. (hereinafter "Post");
2. General Mills, Inc. and General Mills Sales, Inc. (hereinafter "General");
3. Kellogg USA, Inc. (hereinafter "Kellogg");

Pursuant to and in compliance with California Health and Safety Code ("H&S Code") §25249.7(d) and Title 27, California Code of Regulations ("CCR") § 25903. This Notice satisfies a prerequisite for the Noticing Party to commence an action against Post, General and Kellogg to enforce the Safe Drinking Water and Toxic Enforcement Act of 1986. The violations addressed by this Notice occur in every county and city in California. This Notice is being served upon each violator, the California Attorney General, the District Attorney of every California County and the City Attorney of every California City with a population (according to the most recent decennial census) of over 750,000.

If Post, General or Kellogg's has a current registration with the California Secretary of State that identifies a Chief Executive Officer, President, or General Counsel, this Notice is being addressed to, and served upon, one of those persons or as directed counsel of record in Cereal Litigation.

This Notice is provided by the Noticing Parties, which are based in Southern California . The Noticing Parties are acting in the public interest pursuant to H&S Code §25249.7(d), and are dedicated to protecting the environment, improving human health and supporting environmentally sound practices.

The violators' names and addresses are listed on the Distribution List to this Notice and the violations began on or after January 1, 1991, while also occurring on a continuous basis on numerous occasions each and every day since at least Nov. 1, 2012, and are ongoing and continuing today.

This Notice of Violation covers the "warning provision" of Proposition 65, which is found at H&S Code §25249.6.

The name of each chemical that is listed pursuant to the Safe Drinking Water and Toxic Enforcement Act of 1986 involved in the violations addressed by this Notice is Acrylamide; (the "Listed Chemical"). The Listed Chemical is listed (and has been so listed for more than twelve months) by the Governor of the State of California as being a chemical known to the State of California to cause cancer and/or reproductive toxicity, or both cancer and reproductive toxicity.

The route of exposure for the violations addressed by this Notice is ingestion. There is also a danger of a dermal exposure while preparing the product for consumption.

The type of consumer products causing the exposures addressed by this Notice are "Ready to Eat Breakfast Cereals", including but not limited to, the Brands and Varieties listed on an Attachment to this Notice.

There are numerous sources of the exposures addressed in this Notice. These exposures occur in homes, workplaces and everywhere else in California where these products are consumed or prepared for consumption. These exposures occur principally off the property of the Noticed Companies.

In the course of doing business, Post, General and Kellogg have knowingly and intentionally exposed, and continues to expose, individuals (especially pregnant and post-partum women) to the Listed Chemical. No clear and reasonable warning is or has been provided by Post, General and Kellogg to individuals regarding exposure to the Listed Chemical or regarding the fact that the Listed Chemical is known to the State of California to be a carcinogen, reproductive toxicant, or both a carcinogen and reproductive toxicant.

These exposures have gone on from at least Nov 1, 2012, possibly sooner and are ongoing and continuing today as the Noticing Party believes and so alleges that Post, General and Kellogg has tolled the statute of limitations by negligent and/or fraudulent concealment of the constituents of the ingredients in their products from those persons that required warning in the stores where Post, General and Kellogg products are sold for consumer consumption in California and/or have failed and continue to fail to warn in compliance with statute.

The labels on Post, General and Kellogg products are further absent any warning that would meet the definition delineated at Title 27 CCR §25601 et seq, nor do they comply with § 25603 et seq of that regulation.

The carcinogen and as a newly designated reproductive toxicant, contained in the ingredients of the products, and subject to the warning requirements of H&S Code §25249.6 are listed below:

1 Acrylamide

The aforementioned carcinogen/reproductive toxicant is on the Governor's list (Prop 65 List). This chemical is known to the State of California to cause carcinogenic harm to humans requiring special warning labels and care in handling and use. The concentrations of these toxins in the subject consumer food product exceed the No Significant Risk Level ("NSRL") threshold of 0.2 microgram per day and require a warning of the existence of this chemical danger by the manufacture.

The principal route of exposure is through a "consumer products exposure" via ingestion and possibly through inhalation while being prepared in food processing. There is also a distinct danger of contacting this carcinogen via a dermal exposure while using the food product as intended by the manufacture. These exposures have gone on since Nov 1 2012, and are ongoing and continuing at every place in California that the products listed in ATTACHMENT B are offered for sale and consumption. All references to "exposure" in this notice shall be understood to be exposures to the specific product lines in Post, General and Kellogg products and the ingredients of those products.

The sale of these products constitutes a transfer of a known carcinogenic chemical into the populous and the normal consumption of the product by the purchaser or others will cause the exposure without a clear and reasonable warning.

The location of these alleged exposures are many and varied while occurring within the 58 counties of the state of California. The Noticing Party believes and so alleges that at least one of the jurisdictions identified had Cereal products sold within that county by a Post, General and Kellogg retail distributor and that sale caused the utilization of the consumer food product and subsequent exposure. Further that usage caused exposures in that jurisdiction to the constituents of the consumer food product as identified herein, and those exposures by Noticed Parties were allowed to take place without the prerequisite warnings as delineated by the applicable statutes specified in this notice.

Please direct any inquiries regarding this notice or any communication with counsel for the Noticing Party at:

KURT BOLLIN LAW
1506 Oak Street-Unit D
South Pasadena, CA 91030
818- 599- 8020

Respectfully,

/s/ Kurt S. Bollin
Kurt S. Bollin, Esq.

CERTIFICATE OF MERIT
HEALTH AND SAFETY CODE SECTION 25249.7(d)

• **ACRYLAMIDE**

NOTICED PARTIES:

POST FOODS, LLC, POST HOLDINGS, INC And
GENERAL MILLS, INC.
GENERAL MILLS SALES, INC., And
KELLOGG USA, INC

I, Kurt Bollin, am counsel for the Noticing Parties and hereby declare:

1. This Certificate of Merit accompanies the attached sixty-day notice(s) in which it is alleged that the parties identified in the notices have violated California Health and Safety Code section 25249.6 by failing to provide clear and reasonable warnings.
2. I am the counsel for the noticing parties.
3. 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 exposure to the listed chemical(s) that is the subject of this action.
4. Based upon the information obtained through those consultations, and all 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 private action" means that the information provides a credible basis that all the elements of the plaintiffs' case can be established and the information did not prove that the alleged violator will be able to establish any of the affirmative defenses set forth in the statute.
5. The copy of this 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 and Safety Code section 25249.7(h) (2).

Date: Sept 16, 2015

Signed by:

/s/ Kurt S. Bollin
Kurt S. Bollin, Esq.

CERTIFICATE OF SERVICE

I am over the age of 18 and not a party to this case. I am a resident of or employed in the county where the mailing occurred. My business address is P.O. Box 828, Fillmore, Ca 93016.

On Sept 16, 2015 I served copies of the documents listed immediately hereafter by Case Anywhere and by placing same in sealed envelopes, fully preparing postage thereon, and depositing said envelopes in the U.S. Mail at Fillmore, California. Said envelopes were addressed as follows:

SEE ATTACHED DISTRIBUTION LIST

(sent via Priority Mail with applicable postage to those parties)

Documents mailed:

- 1. NOTICE OF VIOLATION OF THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (California Health and Safety Code §25249.5 et seq.)**
- 2. APPENDIX "A", "SUMMARY" of Prop 65 prepared by the Office of Emergency Health Hazard Assessment, ("OEHHA"). 2014 Version.**
- 3. CERTIFICATE OF MERIT - (attachments only sent to California Attorney General's Office)**

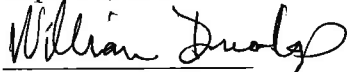
**TO: Post Foods, LLC
275 Cliff Street
Battle Creek, ML 94014**

**General Mills, Inc.
No. One General Mills Blvd.
Minneapolis, MN. 55426**

**Kellogg USA, Inc.
One Kellogg Square
Battle Creek, ML 49016**

I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct, and that this declaration was executed on Sept. 16, 2015 at Fillmore, California.

Sept, 16, 2015



William Dunlap

**ATTACHMENT LIST OF CEREAL
LABELS BY BRAND**

Attachment

RALSTON CEREALS

Raisin Bran Chex
Crisp Crunch
Honey Bran
Honey Graham Chex
WWF Superstars

POST CEREALS

Honey-Comb
Banana Nut Crunch
Bran Flakes (Post)

GENERAL MILLS CEREALS

Cocoa Puffs
Nut Cheerios
Team Cheerios

KELLOGG CEREALS

Cocoa Rice Krispies
All-Wheat Flakes
Apple Jacks
Pop-Tarts Crunch

POST CEREAL PRODUCTS:

Cocoa Pebbles
Fruity Pebbles
Grape-Nuts
Great Grains Banana Nut Crunch
Great Grains Cranberry Almond Crunch
Honey Bunche of Oats ("HBO") Apple
Cinnamon Bunches
HBO Honey Roasted
HBO Raisin Medley
HBO with Banana Bunches
HBO with Chocolate Bunches
HBO with Cinnamon Bunches
HBO with real Peaches
HBO with Pecan Bunches
HBO with real Strawberries
HBO with Vanilla Bunches
Honey-Comb
Post Bran Flakes
Post Raisin Bran
Selects Blueberry Morning Selects Maple
Pecan Crunch Shredded Wheat Big Biscuit
Shredded Wheat Bite Size

KELLOGG CEREAL
PRODUCTS:

All-Bran (original)
All-Bran Bran Buds
All-Bran Complete Wheat Flakes
Corn Pops
Cracklin' Oat Bran
Crispix
Frosted Flakes (original)
Frosted Mini-Wheats (Big Bite)
Frosted Mini-Wheats (Bite Size)
Kellogg's Corn Flakes (original)
Kellogg's Raisin Bran
Kellogg's Raisin Bran Crunch
Mueslix
Rice Krispies (original)
Smart Start Antioxidant
Smart Start Toasted Oats
Special K (original)

GENERAL MILLS CEREAL
PRODUCTS:

Apple Cinnamon Bunches Cheerios
Berry Burst Cheerios
Cheerios (Yellow Box) Cinnamon Toast
Crunch Cocoa Puffs
Cookie Crisp
Corn Chex
Fiber One (original)
Fiber One Caramel Delight
French Toast Crunch Frosted Cheerios
Golden Grahams
Honey Nut Cheerios Honey Nut
Clusters Kix
Lucky Charms
Multi Grain Cheerios Raisin Nut Bran
Reese's Puffs
Rice Chex
Total Brown Sugar & Oats
Total Corn Flakes Total Raisin Bran
Total Whole Grain
Wheaties (original)
Wheat Chex

APPENDIX "A"

SUMMARY

(OF PROPOSITION 65)

2014 VERSION

APPENDIX A

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY

The following summary has been prepared by the California Office of Environmental Health Hazard Assessment (OEHHA), the lead agency for the implementation of the Safe Drinking Water and Toxic Enforcement Act of 1986 (commonly known as "Proposition 65"). A copy of this summary must be included as an attachment to any notice of violation served upon an alleged violator of the Act. The summary provides basic information about the provisions of the law, and is intended to serve only as a convenient source of general information. It is not intended to provide authoritative guidance on the meaning or application of the law. Please refer to~~The reader is directed to~~ the statute and OEHHA's implementing regulations (see citations below) for further information.

FOR INFORMATION CONCERNING THE BASIS FOR THE ALLEGATIONS IN THE NOTICE RELATED TO YOUR BUSINESS, CONTACT THE PERSON IDENTIFIED ON THE NOTICE.

The text of Proposition 65 ~~(appears in California law as~~ Health and Safety Code Sections 25249.5 through 25249.13). ~~The statute is available online at:~~ <http://oehha.ca.gov/prop65/law/P65law72003.html>. Regulations that provide more specific guidance on compliance, and that specify procedures to be followed by the State in carrying out certain aspects of the law, are found in Title 27 of the California Code of Regulations, sections 25102 through 27001.¹ These implementing regulations are available online at: <http://oehha.ca.gov/prop65/law/P65Regs.html>.

WHAT DOES PROPOSITION 65 REQUIRE?

The "Proposition 65 Governor's List." Under Proposition 65, ~~requires the~~ implementing agency (OEHHA) ~~Governor~~ publishes a list of chemicals that are known to the State of California to cause cancer and/or reproductive toxicity. ~~This means that~~ chemicals are placed on the Proposition 65 list if they are known to cause cancer and/or

¹ All further regulatory references are to sections of Title 27 of the California Code of Regulations unless otherwise indicated. The statute, regulations and relevant case law are available on the OEHHA website at: <http://www.oehha.ca.gov/prop65/law/index.html>.

birth defects or other reproductive harm, such as damage to female or male reproductive systems or to the developing fetus. This list must be updated at least once a year. The current Proposition 65 list of chemicals is available on the OEHHA website at: http://www.oehha.ca.gov/prop65/prop65_list/Newlist.html.

Only those chemicals that are on the list are regulated under Proposition 65 this law. Businesses that produce, use, release or otherwise engage in activities involving listed chemicals must comply with the following:

Clear and reasonable warnings. A business is required to warn a person before "knowingly and intentionally" exposing that person to a listed chemical unless an exemption applies; ~~for example, when exposures are sufficiently low (see below).~~ The warning given must be "clear and reasonable." This means that the warning must: (1) clearly ~~say~~ make known that the chemical involved is known to cause cancer, or birth defects or other reproductive harm and (2) be given in such a way that it will effectively reach the person before he or she is exposed to that chemical. Some exposures are exempt from the warning requirement under certain circumstances discussed below.

Prohibition from discharges into drinking water. A business must not knowingly discharge or release a listed chemical into water or onto land where it passes or probably will pass into a source of drinking water. Some discharges are exempt from this requirement under certain circumstances discussed below.

DOES PROPOSITION 65 PROVIDE ANY EXEMPTIONS?

Yes. You should consult the current version of the statute and regulations (<http://www.oehha.ca.gov/prop65/law/index.html>) to determine all applicable exemptions, the most common of which are the following:

Grace Periods. Proposition 65 warning requirements do not apply until 12 months after the chemical has been listed. The Proposition 65 discharge prohibition does not apply to a discharge or release of a chemical that takes place less than 20 months after the listing of the chemical.

Governmental agencies and public water utilities. All agencies of the federal, state or local government, as well as entities operating public water systems, are exempt.

Businesses with nine or fewer employees. Neither the warning requirement nor the discharge prohibition applies to a business that employs a total of nine or fewer

employees. This includes all full and part-time employees, not just those present in California.

Exposures that pose no significant risk of cancer. For chemicals that are listed under Proposition 65 as known to the State to cause cancer (~~“carcinogens”~~), a warning is not required if the business causing the exposure can demonstrate that the exposure occurs at a level that poses “no significant risk.” This means that the exposure is calculated to result in not more than one excess case of cancer in 100,000 individuals exposed over a 70-year lifetime. The Proposition 65 regulations identify specific “No Significant Risk Levels” (NSRLs) for many listed carcinogens. Exposures below these levels are exempt from the warning requirement. See OEHHA’s website at: <http://www.oehha.ca.gov/prop65/getNSRLs.html> for a list of NSRLs, and Section 25701 *et seq.* of the regulations for information concerning how these levels are calculated.

Exposures that will produce no observable reproductive effect at 1,000 times the level in question. For chemicals known to the State to cause reproductive toxicity, a warning is not required if the business causing the exposure can demonstrate that the exposure will produce no observable effect, even at 1,000 times the level in question. In other words, the level of exposure must be below the “no observable effect level” divided by a 1,000. This number is known as the Maximum Allowable Dose Level (MADL). See OEHHA’s website at: <http://www.oehha.ca.gov/prop65/getNSRLs.html> for a list of MADLs, and Section 25801 *et seq.* of the regulations for information concerning how these levels are calculated.

Exposures to Naturally Occurring Chemicals in a Food. Certain exposures to chemicals that naturally occur in foods ~~naturally~~ (i.e., that do not result from any known human activity, including activity by someone other than the person causing the exposure) are exempt from the warning requirements of the law. If the chemical is a contaminant² it must be reduced to the lowest level feasible. Regulations explaining this exemption can be found in Section 25501.

Discharges that do not result in a “significant amount” of the listed chemical entering into any source of drinking water. The prohibition from discharges into drinking water does not apply if the discharger is able to demonstrate that a “significant amount” of the listed chemical has not, does not, or will not pass into or probably pass into a source of drinking water, and that the discharge complies with all other applicable laws, regulations, permits, requirements, or orders. A “significant amount” means any detectable amount, except an amount that would meet the “no significant risk” level for chemicals that cause cancer or that is 1,000 times below the “no observable effect”

² See Section 25501(a)(4)

level for chemicals that cause reproductive toxicity, if an individual were exposed to that amount in drinking water.

HOW IS PROPOSITION 65 ENFORCED?

Enforcement is carried out through civil lawsuits. These lawsuits may be brought by the Attorney General, any district attorney, or certain city attorneys. Lawsuits may also be brought by private parties acting in the public interest, but only after providing notice of the alleged violation to the Attorney General, the appropriate district attorney and city attorney, and the business accused of the violation. The notice must provide adequate information to allow the recipient to assess the nature of the alleged violation. The notice must comply with the information and procedural requirements specified in Section 25903 of Title 27 the regulations and in ~~Title 14~~, sections 3100-3103 of Title 11. A private party may not pursue an independent enforcement action under Proposition 65 if one of the governmental officials noted above initiates an enforcement action within sixty days of the notice.

A business found to be in violation of Proposition 65 is subject to civil penalties of up to \$2,500 per day for each violation. In addition, the business may be ordered by a court to stop committing the violation.

A private party may not file an enforcement action based on certain exposures if the alleged violator meets specific conditions. For the following types of exposures, the Act provides an opportunity for the business to correct the alleged violation:

- An exposure to alcoholic beverages that are consumed on the alleged violator's premises to the extent onsite consumption is permitted by law;
- An exposure to a Proposition 65 listed chemical in a food or beverage prepared and sold on the alleged violator's premises that is primarily intended for immediate consumption on- or off-premises. This only applies if the chemical was not intentionally added to the food, or was formed by cooking or similar preparation of food or beverage components necessary to render the food or beverage palatable or to avoid microbiological contamination;
- An exposure to environmental tobacco smoke caused by entry of persons (other than employees) on premises owned or operated by the alleged violator where smoking is permitted at any location on the premises;
- An exposure to listed chemicals in engine exhaust, to the extent the exposure occurs inside a facility owned or operated by the alleged violator and primarily intended for parking non-commercial vehicles.

ATTACHMENT "B"
DISTRIBUTION LIST

DISTRIBUTION LIST

Mr. Robert V. Vitale, CEO
Post Foods, LLC., Post
Holdings, Inc.
275 Cliff Street
Battle Creek, MI. 49014

Mr. Kendall J. Powell, CEO
General Mills, Inc.
No. One General Mills
Blvd. Minneapolis, MN.
55426

Mr. John A. Bryant,
CEO Kellogg USA,
Inc.
One Kellogg Square
Battle Creek, MI. 49016

CALIFORNIA ATTORNEY
GENERAL CA Department of
Justice
PROP. 65 ENFORCEMENT REPORTING
Attn: Prop 65 Coordinator 1515 Clay Street,
Suite 2000 Post Office Box 70550 Oakland,
CA 94612-0550

District Attorney of Alameda County
1225 Fallon Street, Room 900
Oakland, CA 94612

District Attorney of Alpine County
P.O. Box 248
Markleeville, CA 96120

District Attorney of Amador County
708 Court Street, #202
Jackson, CA 95642

District Attorney of Butte County
25 County Center Drive
Oroville, CA 95965

District Attorney of Calaveras County
891 Mountain Ranch Road
San Andreas, CA 95249

District Attorney of Imperial County
939 Main Street
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
Hanford, CA 93230

District Attorney of Lassen County
220 S. Lassen St., Ste 8
Susanville, CA 96130

District Attorney of Nevada County
201 Church St., Suite 8
Nevada City, CA 95959

District Attorney of El Dorado County
515 Main Street
Placerville, CA 95667

District Attorney of Fresno County
2220 Tulare Street, #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 Colusa County
547 Market Street
Colusa, CA 95932

District Attorney of Contra Costa County
725 Court Street, Room 402
Martinez, CA 94553

District Attorney of Del Norte County
450 H Street, Ste 171
Crescent City, CA 95531

District Attorney of Lake County
255 N. Forbes Street
Lakeport, CA 95453

District Attorney of Napa County
931 Parkway Mall
Napa, CA 94559

District Attorney of Los Angeles County
210 W. Temple Street, Room 345
Los Angeles, CA 90012

District Attorney of Madera County
209 West Yosemite Avenue
Madera, CA 93637