

AMENDED NOTICE OF VIOLATION

California Safe Drinking Water and Toxic Enforcement Act

Acrylamide in Fried or Baked Potato or Sweet Potato Based Snack Foods

August 26, 2016

This Amended Notice of Violation is provided to you pursuant to and in compliance with California Health and Safety Code Section 25249.7(d). This Notice amends the Notices of Violation previously issued on June 14, 2016 (Attorney General No. 2016-00572), July 27, 2016 (Attorney General Nos. 2016-00748 and 2016-00750), and August 12, 2016 (Attorney General Nos. 2016-00845 and 2016-00848).

- 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 Amended 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 identified on the attached Exhibit 1.
- Time Period of Exposure: The violations have been occurring since at least August 26, 2013, and are ongoing.
- Provision of Proposition 65: This Amended 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 Amended Notice.
- Type of Product: The specific type of product causing these violations is fried or baked potato or sweet potato based snack foods ("Snack Foods"). Potatoes or sweet potatoes can be found in the products in various forms, including but not limited to sliced potatoes, dehydrated potatoes, potato flour, potato flakes, potato starch, sliced sweet potatoes, sweet potato flour, and sweet potato powder. Non-exclusive examples of this specific type of product are identified on the attached Exhibit 1. With respect to alleged violator Amazon.com, Inc., the type of product causing these violations is limited to Snack Foods sold by The French's Food Company, LLC. With respect to Bristol Farms, the type of product causing these violations is limited to Snack Foods sold by Inventure Foods, Inc. With respect to CVS Pharmacy, Inc., the type of product causing these violations is limited to Snack Foods sold under the Gold Emblem and Gold

Emblem Abound brands. With respect to Gelson's Markets, the type of product causing these violations is limited to Snack Foods sold by Good Health Natural Products, Inc. With respect to Safeway, Inc., the type of product causing these violations is limited to Snack Foods sold by Great American Foods, Inc. and Snack Foods sold under the Open Nature brand. With respect to Sunflower Farmers Markets, LLC, the type of product causing these violations is limited to Snack Foods sold by Kettle Foods, Inc., Snikiddy, LLC, Dieffenbach's Potato Chips, Inc., and One Potato Snacks, LLC and Snack Foods sold under the Sprouts brand. With respect to Wal-Mart Stores, Inc., the type of product causing these violations is limited to Snack Foods sold by Utz Quality Foods, Inc. With respect to Walmart.com USA LLC, the type of product causing these violations is limited to Snack Foods sold by Con-Agra Foods, Inc., Dishaka LLC and Natural Intentions, Inc. With respect to Walgreen Co., the type of product causing these violations is limited to Snack Foods sold under the Nice! brand.

- Description of Exposure: This Amended Notice addresses consumer exposures to acrylamide. Consumption of the products subject to this Amended Notice results in human exposures to acrylamide. The products contain acrylamide, which is formed during the manufacturing process when the products are cooked at high temperatures. 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 Amended 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 Amended 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 Snack Foods; 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 variety of any such products sold by each alleged violator in the year preceding this Amended Notice.

Please direct any inquiries regarding this Amended 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 26, 2016 Amended Notice of Violation
Acrylamide in Fried or Baked Potato or Sweet Potato Based Snack Foods

Names and Addresses of Responsible Parties	Further Limitation on Type of Product	Non-Exclusive Examples of the Products
<p>Amazon.com, Inc. 410 Terry Avenue N Seattle, WA 98109</p>	<p>Sold by The French's Food Company, LLC</p>	<p>French's Potato Sticks Original Flavor SKU No. 0-41500-21005-6 ASIN: B004LGBJKE</p>
<p>Bristol Farms 915 E. 230th Street Carson, CA 90745</p>	<p>Sold by Inventure Foods, Inc.</p>	<p>Boulder Canyon Authentic Foods Baked Sweet Potato Fries SKU No. 7-08163-92070-7</p>
<p>ConAgra Foods, Inc. 11 ConAgra Drive, 11-260 Omaha, NE 68102</p>	<p>n/a</p>	<p>Andy Capp's Cheddar Fries SKU No. 0-26200-47181-5</p>
<p>CVS Pharmacy, Inc. One CVS Drive Woonsocket, RI 02895</p>	<p>Gold Emblem and Gold Emblem Abound brands</p>	<p>Gold Emblem Abound Veggie Chips Item No. 919417 SKU No. 0-50428-52234-9</p>
<p>The French's Food Company, LLC 399 Interpace Parkway Parsippany, NJ 07054</p>	<p>n/a</p>	<p>French's Potato Sticks Original Flavor SKU No. 0-41500-21005-6 ASIN: B004LGBJKE</p>
<p>Gelson's Markets 13833 Freeway Drive Santa Fe Springs, CA 90670</p>	<p>Sold by Good Health Natural Products, Inc.</p>	<p>Good Health Veggie Chips in Sea Salt SKU No. 7-55355-00515-5</p>
<p>Good Health Natural Products, Inc. 115 Pomona Drive Greensboro, NC 27407</p>	<p>n/a</p>	<p>Good Health Veggie Chips in Sea Salt SKU No. 7-55355-00515-5</p>
		<p>Good Health Sweet Potato Kettle Chips with Sea Salt SKU No. 7-55355-00615-2</p>

<p>Great American Foods, Inc. 433 Airport Blvd. Suite 404 Burlingame, CA 94010</p>	<p>n/a</p>	<p>Pik-Nik Original Shoestring Potatoes SKU No. 0-74923-40527-3</p>
<p>Inventure Foods, Inc. 5415 E. High Street Suite 350 Phoenix, AZ 85054</p>	<p>n/a</p>	<p>Boulder Canyon Authentic Foods Baked Sweet Potato Fries SKU No. 7-08163-92070-7</p>
<p>Safeway, Inc. Tax Division 5918 Stoneridge Mall Road Pleasanton, CA 94588</p>	<p>Sold by Great American Foods, Inc. and sold under the Open Nature brand</p>	<p>Pik-Nik Original Shoestring Potatoes SKU No. 0-74923-40527-3</p>
		<p>Open Nature Veggie Chips SKU No. 0-79893-11278-7</p>
<p>Sunflower Farmers Markets, LLC 5455 East High Street Suite 111 Phoenix, AZ 85054</p>	<p>Sold by Kettle Foods, Inc., Snikiddy, LLC, Dieffenbach's Potato Chips, Inc. and One Potato Snacks, LLC and sold under the Sprouts brand</p>	<p>Kettle Uprooted Real Vegetable Chips - Sweet Potatoes, Beets & Parsnips with Sea Salt SKU No. 0-84114-11492-1</p>
		<p>Eat Your Vegetables Tasty Veggie Chips with Sea Salt SKU No. 8-91803-00115-4</p>
		<p>One Potato Two Potato Sweet Potato Chips SKU No. 7-85654-00063-6</p>
		<p>Sprouts Veggie Chips SKU No. 6-46670-31278-6</p>
<p>Utz Quality Foods, Inc. 900 High Street Hanover, PA 17331</p>	<p>n/a</p>	<p>Utz Original Potato Stix SKU No. 0-41780-07084-5</p>
<p>Wal-Mart Stores, Inc. 702 SW 8th Street Bentonville, AR 72716</p>	<p>Sold by Utz Quality Foods, Inc.</p>	<p>Utz Original Potato Stix SKU No. 0-41780-07084-5</p>

<p>Walmart.com USA LLC 850 Cherry Avenue San Bruno, CA 94066</p>	<p>Sold by ConAgra Foods, Inc., Dishaka LLC and Natural Intentions, Inc.</p>	<p>The Daily Crave Veggie Chips SKU No. 8-58641-00300-9</p>
<p>Walgreen Co. 161 Washington Street Suite 1400 Conshohocken, PA 19428</p>	<p>Nice! brand</p>	<p>Andy Capp's Cheddar Fries SKU No. 0-26200-47181-5</p>
		<p>Nice! Veggie Chips Crinkle Cut SKU No. 0-49022-76798-0</p>
		<p>Nice! Sweet Potato Sticks with Sea Salt SKU No. 0-49022-90338-8</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 26, 2016



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 cfisher@lexlawgroup.com.

On August 26, 2016, 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 11:51 A.m. on August 26, 2016:

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

Yeng Dang
Supervising Deputy District Attorney
Santa Clara County
70 West Hedding Street, West Wing
San Jose, CA 95110
epu@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

Gregory Alker, Assistant District Attorney
San Francisco County
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 County
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
DAConsumer.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 August 26, 2016, at San Francisco, California.

Signed: _____



Casey Fisher

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
346 Fifth Street, Suite 101
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 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
201 Commercial 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 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 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
1112 Santa Barbara Street
Santa Barbara, CA 93101

District Attorney of Shasta
County
1355 West Street
Redding, CA 96001

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 Stanislaus County
832 12th Street, Ste. 300
Modesto, CA 95354

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 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

Jeff Martin, President*
Good Health Natural Products, Inc.
115 Pomona Drive
Greensboro, NC 27407

President*
Great American Foods, Inc.
433 Airport Blvd.
Suite 404
Burlingame, CA 94010

Robert L. Edwards, CEO*
Safeway, Inc.
Tax Division
5918 Stoneridge Mall Road
Pleasanton, CA 94588

President*
Sunflower Farmers Markets, LLC
11811 N. Tatum Blvd
Suite 2400
Phoenix, AZ 85028

President*
Sunflower Farmers Markets, LLC
5455 East High Street
Suite 111
Phoenix, AZ 85054

President*
Walgreen Co.
108 Wilmot Road
Deerfield, IL 60015

President*
Walgreen Co.
161 Washington Street
Suite 1400
Conshohocken, PA 19428

Jeffrey Bezos, President*
Amazon.com, Inc.
410 Terry Avenue N
Seattle, WA 98109

Sean M. Connolly, CEO*
ConAgra Foods, Inc.
11 ConAgra Drive, 11-260
Omaha, NE 68102

Larry J. Merlo, CEO*
CVS Pharmacy, Inc.
One CVS Drive
Woonsocket, RI 02895

President*
The French's Food Company,
LLC
399 Interpace Parkway
Parsippany, NJ 07054

President*
Gelson's Markets
13833 Freeway Drive
Santa Fe Springs, CA 90670

Dylan Lissette, President*
Utz Quality Foods, Inc.
900 High Street
Hanover, PA 17331

C. Douglas McMillon, CEO*
Wal-Mart Stores, Inc.
702 SW 8th Street
Bentonville, AR 72716

President*
Walmart.com USA LLC
850 Cherry Avenue
San Bruno, CA 94066

President*
Bristol Farms
915 E. 230th Street
Carson, CA 90745

Terry McDaniel, CEO*
Inventure Foods, Inc.
5415 E. High Street
Suite 350
Phoenix, AZ 85054