

NOTICE OF VIOLATION

California Safe Drinking Water and Toxic Enforcement Act

Acrylamide in Molasses

February 8, 2017

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 identified on the attached Exhibit 1.
- Time Period of Exposure: The violations have been occurring since at least February 8, 2014, 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.
- Type of Product: The specific type of product causing these violations is molasses. Non-exclusive examples of this specific type of product are identified on the attached Exhibit 1. With respect to Foodservicedirect Inc. and Paper House, Inc., the type of product causing these violations is limited to molasses sold by Natural American Foods, Inc. With respect to Save Mart Supermarkets, the type of product causing these violations is limited to molasses sold by Wholesome Sweeteners, Inc. With respect to Trader Joe's Company, the type of product causing these violations is limited to molasses sold under the Trader Joe's brand. With respect to Whole Foods Market California, Inc. and Mrs. Gooch's Natural Food Markets, Inc., the type of product causing these violations is limited to molasses sold by Allied Old English, Inc.
- Description of Exposure: This Notice addresses consumer exposures to acrylamide. Consumption of the products subject to this 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 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 molasses; 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 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
February 8, 2017 Notice of Violation
Acrylamide in Molasses

Names and Addresses of Responsible Parties	Further Limitation on Type of Product	Non-Exclusive Examples of the Products
Allied Old English, Inc. 100 Markey Street Port Reading, NJ 07064	n/a	Plantation Blackstrap Unsulphured Molasses SKU No. 7-70258-02403-5
Foodservicedirect Inc. 905 G Street Hampton, VA 23661 Paper House, Inc. 905 G Street Hampton, VA 23661	Sold by Natural American Foods, Inc.	Natural American Foods Blackstrap Unsulphured Molasses SKU No. 0-81279-14401-5 Product No. OT385794
Natural American Foods, Inc. 10464 Bryan Highway Onsted, MI 49265	n/a	Natural American Foods Blackstrap Unsulphured Molasses SKU No. 0-81279-14401-5 Product No. OT385794
Save Mart Supermarkets 1800 Standiford Avenue Modesto, CA 95350	Sold by Wholesome Sweeteners, Inc.	Wholesome Organic Unsulphured Molasses SKU No. 0-12511-60000-6
Trader Joe's Company 800 S. Shamrock Avenue Monrovia, CA 91016	Trader Joe's brand	Trader Joe's Organic Blackstrap Unsulphured Molasses SKU No. 0057-8073
Whole Foods Market California, Inc. 550 Bowie Street Austin, TX 78703 Mrs. Gooch's Natural Food Markets, Inc. 550 Bowie Street Austin, TX 78703	Sold by Allied Old English, Inc.	Plantation Blackstrap Unsulphured Molasses SKU No. 7-70258-02403-5
Wholesome Sweeteners, Inc. 14141 Southwest Fwy, Ste. 160 Sugar Land, TX 77478	n/a	Wholesome Organic Unsulphured Molasses SKU No. 0-12511-60000-6

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.

February 8, 2017



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 aklompus@lexlawgroup.com.

On February 8, 2017, 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 3:54 p.m. on February 8, 2017:

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

Yen 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
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600 Administration Drive, Rm. 212J
Santa Rosa, CA 95403
jbarnes@sonoma-county.org

Phillip J. Cline, District Attorney
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221 S. Mooney Avenue, Rm. 224
Visalia, CA 93291
Prop65@co.tulare.ca.us

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Prop65@rivcoda.org

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301 Second Street
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cfepd@yolocounty.org

Gregory Alker, Assistant District Attorney
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1200 Aguajito Road
Monterey, CA 93940
Prop65DA@co.monterey.ca.us

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901 G Street
Sacramento, CA 95814
Prop65@sacda.org

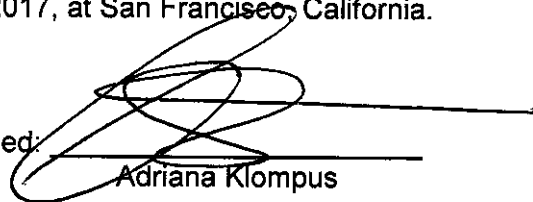
Tori Verber Salazar, District Attorney
San Joaquin County
222 E. Weber Avenue, Room 202
Stockton, CA 95202
DAConsumer.Environmental@sjcda.org

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 February 8, 2017, at San Francisco, California.

Signed:



Adriana Klompus

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

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District Attorney of Humboldt County
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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

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1215 Truxtun Avenue
Bakersfield, CA 93301

District Attorney of Kings County
1400 West Lacey Blvd.
Hanford, CA 93230

District Attorney of Lake County
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Lakeport, CA 95453

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210 W. Temple Street, Ste. 1800
Los Angeles, CA 90012-3210

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209 West Yosemite Avenue
Madera, CA 93637

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3501 Civic Center Drive, Rm. 130
San Rafael, CA 94903

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P.O. Box 730
Mariposa, CA 95338

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

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2222 "M" Street
Merced, CA 95340

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204 S. Court Street, Rm. 202
Alturas, CA 96101-4020

District Attorney of Mono County
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District Attorney of Nevada County
201 Commercial Street
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401 Civic Center Drive West
Santa Ana, CA 92701

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10810 Justice Center Drive, Ste.
240
Roseville, CA 95678

District Attorney of Plumas
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Quincy, CA 95971

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San Bernardino, CA 92415

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400 County Center, 3rd Fl.
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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
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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	President* Allied Old English, Inc. 100 Markey Street Port Reading, NJ 07064
District Attorney of Stanislaus County 832 12th Street, Ste. 300 Modesto, CA 95354	President* Foodservicedirect Inc. 905 G Street Hampton, VA 23661
District Attorney of Sutter County 446 Second Street Yuba City, CA 95991	President* Paper House, Inc. 905 G Street Hampton, VA 23661
District Attorney of Tehama County P.O. Box 519 Red Bluff, CA 96080	President* Natural American Foods, Inc. 10464 Bryan Highway Onsted, MI 49265
District Attorney of Trinity County P.O. Box 310 11 Court Street Weaverville, CA 96093	Steve Junqueiro, President* Save Mart Supermarkets 1800 Standiford Avenue Modesto, CA 95350
District Attorney of Tuolumne County 423 N. Washington Street Sonora, CA 95370	Steve Junqueiro, President* Save Mart Supermarkets P.O. Box 4278 Modesto, CA 95352
District Attorney of Yuba County 215 Fifth Street Marysville, CA 95901	Dan T. Bane, CEO* Trader Joe's Company 800 S. Shamrock Avenue Monrovia, CA 91016
Los Angeles City Attorney's Office City Hall East 200 N. Main Street, Rm. 800 Los Angeles, CA 90012	President* Whole Foods Market California, Inc. 550 Bowie Street Austin, TX 78703
San Diego City Attorney's Office 1200 Third Avenue, Ste. 1620 San Diego, CA 92101	President* Mrs. Gooch's Natural Food Markets, Inc. 550 Bowie Street Austin, TX 78703
San Francisco City Attorney's Office City Hall, Room 234 1 Dr. Carlton B. Goodlett Place San Francisco, CA 94102	Nigel Willerton, President* Wholesome Sweeteners, Inc. 14141 Southwest Fwy, Ste. 160 Sugar Land, TX 77478
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	