

NOTICE OF VIOLATION

California Safe Drinking Water and Toxic Enforcement Act

Acrylamide in Ginger Snap Cookies

June 2, 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 June 2, 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 ginger snap cookies (“Ginger Snaps”). Non-exclusive examples of this specific type of product are identified on the attached Exhibit 1. With respect to SF Markets, LLC, the type of product causing these violations is limited to Ginger Snaps sold by Enjoy Life Natural Brands, LLC or Mondelez International, Inc. With respect to United Markets, the type of product causing these violations is limited to Ginger Snaps sold by Snyder’s-Lance, Inc. or Torn Ranch, Inc. 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 Ginger Snaps sold by Nature’s Path Foods, 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 Ginger Snaps; 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 lot of each variety of any such products sold by each alleged violator since one year prior to the date of this Notice through the date of any trial of the claims alleged in 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
June 2, 2017 Notice of Violation
Acrylamide in Ginger Snap Cookies

Names and Addresses of Responsible Parties	Further Limitation on Type of Product	Non-Exclusive Examples of the Products
Enjoy Life Natural Brands, LLC 8770 W. Bryn Mawr Avenue Suite 1100 Chicago, IL 60631	n/a	Enjoy Life Soft Baked Gingerbread Spice Cookies SKU No. 8-53522-00025-2
Nature's Path Foods, Inc. 9100 Van Horne Way Richmond, BC V6X 1W3 Canada	n/a	Country Choice Organic Snacking Ginger Snaps SKU No. 7-29906-18002-8
SF Markets, LLC 5455 East High Street Suite 111 Phoenix, AZ 85054	Sold by Enjoy Life Natural Brands, LLC or Mondelez International, Inc.	Enjoy Life Soft Baked Gingerbread Spice Cookies SKU No. 8-53522-00025-2
Shearer's Foods, LLC 100 Lincoln Way East Massillon, OH 44646 Barrel O'Fun Snack Foods Co., LLC 400 Lakeside Drive Perham, MN 56573	n/a	Market Pantry Gingersnap Cookies SKU No. 0-85239-09005-3
Snyder's-Lance, Inc. 13515 Ballantyne Corp Place Charlotte, NC 28277	n/a	Homestyle Archway Classics Crispy Gingersnap Cookies SKU No. 0-27500-09534-3
Torn Ranch, Inc. 2198 South McDowell Blvd. Petaluma, CA 94954	n/a	Torn Ranch Natural Snappy Ginger Cookies SKU No. 0-36412-21686-9

United Markets 522 3rd Street, Ste. B San Rafael, CA 94901	Sold by Snyder's-Lance, Inc. or Torn Ranch, Inc.	Homestyle Archway Classics Crispy Gingersnap Cookies SKU No. 0-27500-09534-3
		Torn Ranch Natural Snappy Ginger Cookies SKU No. 0-36412-21686-9
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 Nature's Path Foods, Inc.	Country Choice Organic Snacking Ginger Snaps SKU No. 7-29906-18002-8

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.

June 2, 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 June 2, 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 1:58p.m. on June 2, 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
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70 West Hedding Street, West Wing
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931 Parkway Mall
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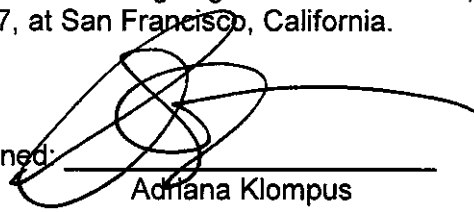
Tori Verber Salazar, District Attorney
San Joaquin County
222 E. Weber Avenue, Room 202
Stockton, CA 95202
DAConsumer.Environmental@sjcda.org

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 June 2, 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
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Placerville, CA 95667

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Fresno, CA 93721

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El Centro, CA 92243

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Alturas, CA 96101-4020

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Bridgeport, CA 93546

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Nevada City, CA 95959

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240
Roseville, CA 95678

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Quincy, CA 95971

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San Bernardino, CA 92415

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District Attorney of Santa
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Santa Barbara, CA 93101

District Attorney of Shasta
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Redding, CA 96001

District Attorney of Sierra County
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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* Enjoy Life Natural Brands, LLC c/o Mondelez Global LLC Three Parkway North, Suite 300 Deerfield, IL 60015	President* Whole Foods Market California, Inc. 550 Bowie Street Austin, TX 78703
District Attorney of Stanislaus County 832 12th Street, Ste. 300 Modesto, CA 95354	President* Enjoy Life Natural Brands, LLC 8770 W. Bryn Mawr Avenue Suite 1100 Chicago, IL 60631	President* Mrs. Gooch's Natural Food Markets, Inc. 550 Bowie Street Austin, TX 78703
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	Arran Stephens, CEO* Nature's Path Foods, Inc. 9100 Van Horne Way Richmond, BC V6X 1W3 Canada	
District Attorney of Trinity County P.O. Box 310 11 Court Street Weaverville, CA 96093	President* SF Markets, LLC 5455 East High Street Suite 111 Phoenix, AZ 85054	
District Attorney of Tuolumne County 423 N. Washington Street Sonora, CA 95370		
District Attorney of Yuba County 215 Fifth Street Marysville, CA 95901	Yelena Boxer* Benesch, Friedlander, Coplan & Aronoff LLP 200 Public Square, Suite 2300 Cleveland, OH 44114	
Los Angeles City Attorney's Office City Hall East 200 N. Main Street, Rm. 800 Los Angeles, CA 90012	<i>Counsel for Shearer's Foods, LLC and Barrel O'Fun Snack Foods Co., LLC</i>	
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San Francisco City Attorney's Office City Hall, Room 234 1 Dr. Carlton B. Goodlett Place San Francisco, CA 94102	Brian Driscoll, CEO* Snyder's-Lance, Inc. P.O. Box 32368 Charlotte, NC 28232	
San Jose City Attorney's Office 200 East Santa Clara Street San Jose, CA 95113	Su Morrow, CEO* Torn Ranch, Inc. 2198 South McDowell Blvd. Petaluma, CA 94954	
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	William Lloyd Daniels, CEO* United Markets 522 3 rd Street, Ste. B San Rafael, CA 94901	