

NOTICE OF VIOLATION

California Safe Drinking Water and Toxic Enforcement Act

Furfuryl Alcohol in Fried or Baked Potato or Sweet Potato Based Snack Foods

December 14, 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, CA 94612, (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 September 30, 2017, 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(s) Involved: The name of the listed chemical involved in these violations is furfuryl alcohol. Exposures to furfuryl alcohol occur from consumption of the products identified in this 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"). Non-exclusive examples of this specific type of product are identified on the attached Exhibit 1. With respect to Safeway Inc., Whole Foods Market California, Inc. and Mrs. Gooch's Natural Food Markets, Inc., the type of product causing these violations is limited to Snack Foods sold by The Hain Celestial Group, Inc.
- Description of Exposure: This Notice addresses consumer exposures to furfuryl alcohol. Consumption of the products subject to this Notice results in human exposures to furfuryl alcohol. The products contain furfuryl alcohol. 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 furfuryl alcohol.

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 furfuryl alcohol 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 furfuryl alcohol 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 furfuryl alcohol in such products; and representative exemplars of each lot of each variety of any such products sold by each alleged violator since September 30, 2017, 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@lexlawgroup.com.

EXHIBIT 1
December 14, 2017 Notice of Violation
Furfuryl Alcohol 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
The Hain Celestial Group, Inc. 1111 Marcus Avenue, #1 Lake Success, NY 11042	n/a	Terra Sweet Potato Chips with Sea Salt SKU No. 7-28229-01431-7
		Terra Sea Salt Vegetable Chips SKU No. 7-28229-01450-8
Safeway Inc. 11555 Dublin Canyon Road Pleasanton, CA 94588	Sold by The Hain Celestial Group, Inc.	Terra Sea Salt Vegetable Chips SKU No. 7-28229-01450-8
Whole Foods Market California, Inc. 5980 Horton Street, Ste. 200 Emeryville, CA 94608 Mrs. Gooch's Natural Food Markets, Inc. 207 Goode Avenue, 7 th Floor Glendale, CA 91203	Sold by The Hain Celestial Group, Inc.	Terra Sweet Potato Chips with Sea Salt SKU No. 7-28229-01431-7

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.

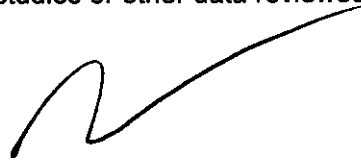
2. I am an attorney with the Lexington Law Group, and I represent the noticing party, the Center for Environmental Health.

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.

December 14, 2017



Howard Hirsch
Attorney for 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 medgar@lexlawgroup.com.

On December 14, 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 12:30 p.m. on December 14, 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

Allison Haley, 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
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221 S. Mooney Avenue, Rm. 224
Visalia, CA 93291
Prop65@co.tulare.ca.us

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

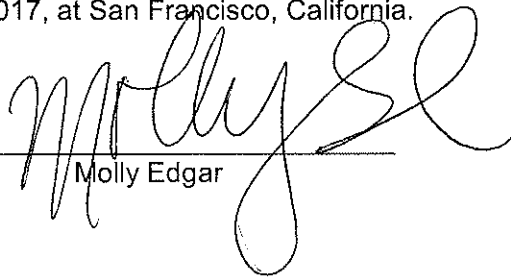
Tori Verber Salazar, District Attorney
San Joaquin County
222 E. Weber Avenue, Room 202
Stockton, CA 95202
DAConsumer.Environmental@sjcda.org

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 December 14, 2017, at San Francisco, California.

Signed: _____



Molly Edgar

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

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P.O. Drawer D
Independence, CA 93526

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1215 Truxtun Avenue
Bakersfield, CA 93301

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1400 West Lacey Blvd.
Hanford, CA 93230

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

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Hall of Justice
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Los Angeles, CA 90012-3210

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Madera, CA 93637

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3501 Civic Center Drive, Rm. 130
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P.O. Box 730
Mariposa, CA 95338

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Ukiah, CA 95482

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Merced, CA 95340

District Attorney of Modoc County
204 S. Court Street, Rm. 202
Alturas, CA 96101-4020

District Attorney of Mono County
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Bridgeport, CA 93546

District Attorney of Nevada County
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Nevada City, CA 95959

District Attorney of Orange County
401 Civic Center Drive West
Santa Ana, CA 92701

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240
Roseville, CA 95678

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San Bernardino, CA 92415

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Santa Cruz, CA 95060

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Santa Barbara, CA 93101

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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
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P.O. Box 986
Yreka, CA 96097

District Attorney of Solano County
675 Texas Street, Ste. 4500
Fairfield, CA 94533

Irwin D. Simon, CEO*
The Hain Celestial Group, Inc.
1111 Marcus Avenue, #1
Lake Success, NY 11042

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

Robert Miller, CEO*
Safeway Inc.
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Pleasanton, CA 94588

District Attorney of Sutter County
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Yuba City, CA 95991

Robert Twyman, CEO*
Whole Foods Market California,
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Emeryville, CA 94608

District Attorney of Tehama County
P.O. Box 519
Red Bluff, CA 96080

District Attorney of Trinity County
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Weaverville, CA 96093

Robert Twyman, CEO*
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Austin, TX 78703

District Attorney of Tuolumne County
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Sonora, CA 95370

Patrick Bradley, CEO*
Mrs. Gooch's Natural Food
Markets, Inc.

District Attorney of Yuba County
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Glendale, CA 91203

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Los Angeles, CA 90012

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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