

## NOTICE OF VIOLATION

### California Safe Drinking Water and Toxic Enforcement Act

### Furfuryl Alcohol in Ready to Eat Shelf Stable Dried Meat & Poultry Food Products

May 11, 2018

This Notice of Violation (the "Notice") 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 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 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 ready to eat shelf stable dried meat and poultry food products (the "Products"). Non-exclusive examples of this specific type of product are identified on the attached Exhibit 1. Further limitations, if any, on the specific Products subject to this Notice for each individual violator are also identified on Exhibit 1.
- 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 the 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 the Products; 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 Eric S. Somers at Lexington Law Group, 503 Divisadero Street, San Francisco, CA 94117, (415) 913-7800, [esomers@lexlawgroup.com](mailto:esomers@lexlawgroup.com).

**EXHIBIT 1**  
**May 11, 2018 Notice of Violation**  
**Furfuryl Alcohol in Ready to Eat Shelf Stable Dried Meat & Poultry Food Products**

<b>Names and Addresses of Responsible Parties</b>	<b>Further Limitation on Products Sold by Violators</b>	<b>Non-Exclusive Examples of the Products</b>
<p><b>ConAgra Brands, Inc.</b>            222 Merchandise Mart Plaza            Chicago, IL 60654</p>	n/a	<p>Slim Jim Monster Size            Smoked Snack Stick,            Honey BBQ Flavored            SKU No.            0-26200-14039-1</p>
<p><b>Frito-Lay, Inc.</b>            7701 Legacy Drive            Plano, TX 75024</p>	n/a	<p>Matador Original            Beef Jerky            SKU No.            0-28400-05705-9</p>
<p><b>General Mills, Inc.</b>            Number One General Mills Blvd            Minneapolis, MN 55426</p> <p><b>Annie's, Inc.</b>            Number One General Mills Blvd            Minneapolis, MN 55426</p> <p><b>Epic Provisions, LLC</b>            Number One General Mills Blvd            Minneapolis, MN 55426</p>	n/a	<p>Epic Bar Chicken,            Sesame &amp; BBQ Seasoned            SKU No.            7-32153-02917-0</p>
<p><b>The Hershey Company</b>            100 Crystal A Drive            Hershey, PA 17033</p> <p><b>Krave Pure Foods, Inc.</b>            100 Crystal A Drive            Hershey, PA 17033</p>	n/a	<p>Krave Beef Jerky            in Sweet Chipotle            SKU No.            8-53370-00629-1</p>
<p><b>Link Snacks, Inc.</b>            1 Snack Food Lane            Minong, WI 54859</p>	n/a	<p>Jack Link's Meat Snacks            Sweet &amp; Hot Beef Jerky            SKU No.            0-17082-87633-1</p>
		<p>Matador Original            Beef Jerky            SKU No.            0-28400-05705-9</p>

<p><b>RSJ Ventures, LLC</b> 515 W. 20<sup>th</sup> St., Ste 4W New York, NY 10011</p>	<p>n/a</p>	<p>Chef's Cut Real Steak Jerky in Chipotle Cracked Pepper SKU No. 8-58959-00501-6</p>
<p><b>Safeway Inc.</b> 11555 Dublin Canyon Road Pleasanton, CA 94588</p>	<p>Sold under Safeway private label brands, or by Frito-Lay, Inc., Link Snacks, Inc., or RSJ Ventures, LLC</p>	<p>Jack Link's Meat Snacks Sweet &amp; Hot Beef Jerky SKU No. 0-17082-87633-1</p>
		<p>Chef's Cut Real Steak Jerky in Chipotle Cracked Pepper SKU No. 8-58959-00501-6</p>
		<p>Matador Original Beef Jerky SKU No. 0-28400-05705-9</p>
		<p>The Snack Artist Peppered Beef Jerky SKU No. 0-21130-29472-5</p>
<p><b>Target Corporation</b> 1000 Nicollet Mall Minneapolis, MN 55403</p>	<p>Sold under Target private label brands, or by The Hershey Company, KravePure Foods, Inc., Tyson Foods, Inc., The Hillshire Brands Company, or Golden Island Jerky Company, Inc.</p>	<p>Krave Beef Jerky in Sweet Chipotle SKU No. 8-53370-00629-1</p>
		<p>Organic Simply Balanced Grass-Fed Beef Jerky in Teriyaki SKU No. 4-90710-80878-0</p>
		<p>Golden Island Pork Jerky, Korean Barbeque Recipe SKU No. 0-10082-55004-1</p>
<p><b>Trader Joe's Company</b> 800 S. Shamrock Avenue Monrovia, CA 91016</p>	<p>Sold under Trader Joe's private label brands</p>	<p>Trader Joe's Organic Beef Jerky, Original SKU No. 0095-9629</p>

<p><b>Tyson Foods, Inc.</b> 2200 W. Don Tyson Parkway Springdale, AR 72762</p> <p><b>The Hillshire Brands Company</b> 2200 W. Don Tyson Parkway Springdale, AR 72762</p> <p><b>Golden Island Jerky Company, Inc.</b> 2200 W. Don Tyson Parkway Springdale, AR 72762</p>	<p>n/a</p>	<p>Golden Island Pork Jerky, Korean Barbeque Recipe SKU No. 0-10082-55004-1</p>
<p><b>Walmart Inc.</b> 702 SW 8<sup>th</sup> Street Bentonville, AR 72716</p>	<p>Sold by ConAgra Brands, Inc.</p>	<p>Slim Jim Monster Size Smoked Snack Stick, Honey BBQ Flavored SKU No. 0-26200-14039-1</p>
<p><b>Whole Foods Market California, Inc.</b> 5980 Horton Street, Ste. 200 Emeryville, CA 94608</p> <p><b>Mrs. Gooch's Natural Food Markets, Inc.</b> 207 Goode Avenue, 7<sup>th</sup> Floor Glendale, CA 91203</p>	<p>Sold by General Mills, Inc., Annie's, Inc. or Epic Provisions, LLC</p>	<p>Epic Bar Chicken, Sesame &amp; BBQ Seasoned SKU No. 7-32153-02917-0</p>

**CERTIFICATE OF MERIT**  
**Health & Safety Code § 25249.7(d)**

I, Eric S. Somers, 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.

May 11, 2018



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Eric S. Somers  
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 May 11, 2018, 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 : 17 A.m. on May 11, 2018:

Stacey Grassini, Deputy District Attorney  
Contra Costa County  
900 Ward Street  
Martinez, CA 94553  
[sgrassini@contracostada.org](mailto:sgrassini@contracostada.org)

Michelle Latimer, Program Coordinator  
Lassen County  
220 S. Lassen Street  
Susanville, CA 96130  
[mlatimer@co.lassen.ca.us](mailto: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](mailto:epu@da.sccgov.org)

Allison Haley, District Attorney  
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1127 First Street, Suite C  
Napa, CA 94559  
[CEPD@countyofnapa.org](mailto:CEPD@countyofnapa.org)

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222 E. Weber Avenue, Room 202  
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[DAConsumer.Environmental@sjcda.org](mailto: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](mailto:edobroth@co.slo.ca.us)

Christopher Dalbey, Deputy District  
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Santa Barbara, CA 93101  
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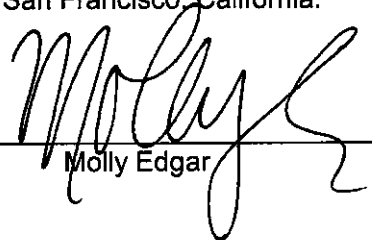
Jeffrey S. Rosell, District Attorney  
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The transmission was reported as complete and without error.

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on May 11, 2018, 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 Kern County 1215 Truxtun Avenue Bakersfield, CA 93301	District Attorney of Placer County 10810 Justice Center Drive, Ste. 240 Roseville, CA 95678
District Attorney of Alpine County P.O. Box 248 Markleeville, CA 96120	District Attorney of Kings County 1400 West Lacey Blvd. Hanford, CA 93230	District Attorney of Plumas County 520 Main Street, Rm. 404 Quincy, CA 95971
District Attorney of Amador County 708 Court Street, Ste. 202 Jackson, CA 95642	District Attorney of Lake County 255 N. Forbes Street Lakeport, CA 95453	District Attorney of San Benito County 419 Fourth Street, 2 <sup>nd</sup> Fl. Hollister, CA 95023
District Attorney of Butte County Administration Building 25 County Center Drive Oroville, CA 95965	District Attorney of Los Angeles County Hall of Justice 211 W. Temple Street, Ste. 1200 Los Angeles, CA 90012-3210	District Attorney of San Bernardino County 316 N. Mountain View Avenue San Bernardino, CA 92415
District Attorney of Calaveras County 891 Mountain Ranch Road San Andreas, CA 95249	District Attorney of Madera County 209 West Yosemite Avenue Madera, CA 93637	District Attorney of San Diego County 330 West Broadway, Ste. 1300 San Diego, CA 92101
District Attorney of Colusa County 346 Fifth Street, Suite 101 Colusa, CA 95932	District Attorney of Marin County 3501 Civic Center Drive, Rm. 130 San Rafael, CA 94903	District Attorney of San Mateo County 400 County Center, 3 <sup>rd</sup> Fl. Redwood City, CA 94063
District Attorney of Del Norte County 450 H Street, Ste. 171 Crescent City, CA 95531	District Attorney of Mariposa County P.O. Box 730 Mariposa, CA 95338	District Attorney of Shasta County 1355 West Street Redding, CA 96001
District Attorney of El Dorado County 515 Main Street Placerville, CA 95667	District Attorney of Mendocino County P.O. Box 1000 Ukiah, CA 95482	District Attorney of Sierra County Courthouse 100 Courthouse Sq., 2 <sup>nd</sup> Fl. Downieville, CA 95936
District Attorney of Fresno County 2220 Tulare Street, Ste. 1000 Fresno, CA 93721	District Attorney of Merced County 2222 "M" Street Merced, CA 95340	District Attorney of Siskiyou County P.O. Box 986 Yreka, CA 96097
District Attorney of Glenn County P.O. Box 430 Willows, CA 95988	District Attorney of Modoc County 204 S. Court Street, Rm. 202 Alturas, CA 96101-4020	District Attorney of Solano County 675 Texas Street, Ste. 4500 Fairfield, CA 94533
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District Attorney of Imperial County 939 Main Street, Ste. 102 El Centro, CA 92243	District Attorney of Nevada County 201 Commercial Street Nevada City, CA 95959	
District Attorney of Inyo County P.O. Drawer D Independence, CA 93526	District Attorney of Orange County 401 Civic Center Drive West Santa Ana, CA 92701	

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District Attorney of Yuba County  
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Los Angeles, CA 90012

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

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