



T 510.836.4200
F 510.836.4205

410 12th Street, Suite 250
Oakland, Ca 94607

www.lozeaudrury.com
rebecca@lozeaudrury.com

June 18, 2018

To: President or CEO – Costco Wholesale Corporation
California Attorney’s Office
District Attorney’s Office for 58 counties
City Attorney’s for San Francisco, San Diego, San Jose, and Los Angeles
(See attached Certificate of Service)

From: Center for Food Safety

Re: Notice of Violations of California Health & Safety Code Section 25249.5 *et seq.*

Dear Addressees:

This firm represents Center for Food Safety in connection with this Notice of Violations of California’s Safe Drinking Water and Toxic Enforcement Act of 1986, which is codified at California Health & Safety Code Section 25249.5 *et seq.* (“Proposition 65”). Center for Food Safety is a national non-profit public interest and environmental advocacy organization working to protect human health and the environment by curbing the use of harmful food production technologies and by promoting organic and other forms of sustainable agriculture. This letter serves to provide notification of these violations to you and to the public enforcement agencies of Proposition 65.

This letter constitutes notice that the entity listed below has violated and continues to violate provisions of Proposition 65. Specifically, the entity listed below has violated and continues to violate the warning requirement at § 25249.6 of the California Health & Safety Code, which provides that “[n]o person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to the state to cause cancer or reproductive toxicity without first giving clear and reasonable warning to such individual...”

Violator: The name of the violator covered by this notice that violated Proposition 65 (hereinafter referred to as the “Violator”) is: Costco Wholesale Corporation.

Listed Chemical: These violations involve exposure to the listed chemical acrylamide. On January 1, 1990, California officially listed acrylamide as a chemical known to the State of California to cause cancer. On February 25, 2011, California officially listed acrylamide as a chemical known to cause reproductive and developmental toxicity.

Consumer Products: The following specific products that are the subject of this notice because are causing exposures in violation of Proposition 65 are:

Notice of Violation of Cal. Health & Safety Code §§ 25249.5 *et seq.*

June 18, 2018

Page 2

1. Kirkland Signature Organic Creamy Peanut Butter
2. Kirkland Signature Organic Creamy Almond Butter
3. Kirkland Signature Creamy Almond Butter

Violation: The alleged Violator knowingly and intentionally exposed and continues to expose consumers within the State of California to acrylamide without providing a Proposition 65 warning. The Violator has manufactured, marketed, distributed, and/or sold the listed products, which have exposed and continue to expose numerous individuals within California to the identified chemical, acrylamide.

Route of Exposure: Use of the products identified in this notice results in human exposures to acrylamide. The primary route of exposure is ingestion.

Duration of Violation: The violations have been occurring since at least June 18, 2017, and are ongoing.

A summary of Proposition 65, prepared by the California Office of Environmental Health Hazard Assessment, is enclosed with the copy of this letter sent to the Violators.

Pursuant to California Health & Safety Code § 25249.7(d), Center for Food Safety intends to file a citizen enforcement action sixty days after effective service of this notice unless the Violator agree in an enforceable written agreement to: (1) reformulate the listed products so as to eliminate further exposures to the identified chemicals; (2) pay an appropriate civil penalty; and (3) provide clear and reasonable warnings compliant with Proposition 65 to all persons located in California who purchased the above products in the last three years. Consistent with the public interest goals of Proposition 65 and my client's objectives in pursuing this notice, Center for Food Safety is interested in seeking a constructive resolution to this matter. Such resolution will avoid both further unwarned consumer exposures to the identified chemical and expensive and time consuming litigation.

Adam Keats is a Senior Attorney with Center for Food Safety. Mr. Keats is located at 303 Sacramento St., 2nd Floor, San Francisco, CA 94111, Tel. 415-826-0507. Center for Food Safety has retained my firm in connection with this matter. Please direct all questions concerning this notice to me, Rebecca Davis (rebecca@lozeaudrury.com), Lozeau Drury LLP, 410 12th Street, Suite 250, Oakland, California 94607, (510) 836-4200.

Sincerely,



Rebecca L. Davis

Attachments:

- Certificate of Merit
- Certificate of Service
- OEHHA Summary (to Violators and their Registered Agents for Service of Process only)
- Additional Supporting Information for Certificate of Merit (to AG only)


CERTIFICATE OF MERIT

**Re: Center for Food Safety's Notice of Proposition 65 Violations by
Costco Wholesale Corporation**

I, Rebecca Davis, declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged that the parties identified in the notice violated California Health & Safety Code Section 25249.6 by failing to provide clear and reasonable warnings.
2. I am an attorney for the noticing party, Center for Food Safety.
3. I have consulted with one or more persons with relevant and appropriate experience or expertise who have reviewed facts, studies, or other data regarding the exposure to the listed chemical that is the subject of the notice.
4. Based on the information obtained through those consultants and 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 that the information did not prove that the alleged violator(s) will be able to establish any of the affirmative defenses set forth in the statute.
5. Along with the copy of this Certificate of Merit, additional factual information sufficient to establish the basis for this certificate has been served on the Attorney General, including the information identified in California 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.

Dated: June 18, 2018



Rebecca Davis

CERTIFICATE OF SERVICE

I, the undersigned, declare under penalty of perjury under the laws of the State of California that the following is true and correct:

I am a citizen of the United States, over the age of 18 years old, and am not a party to the within action. My business address is 410 12th Street, Suite 250, Oakland, California 94607, in Alameda County, where the mailing occurred.

On June 18, 2018, I served the following documents: **(1) NOTICE OF VIOLATIONS OF THE CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; (2) CERTIFICATE OF MERIT; (3) THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY** on the following entities by placing a true and correct copy thereof in a sealed envelope with postage fully prepaid for delivery by Certified Mail, addressed to the entity listed below, and placing the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service.

Current President or CEO
Costco Wholesale Corporation
999 Lake Dr.
Issaquah, WA 98027

C T Corporation System
(Registered Agent for Service of Process for
Costco Wholesale Corporation)
818 West Seventh Street, Suite 930
Los Angeles, CA 90017

On June 18, 2018, I served the following documents **(1) NOTICE OF VIOLATIONS OF THE CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; (2) CERTIFICATE OF MERIT; (3) ADDITIONAL SUPPORTING INFORMATION FOR CERTIFICATE OF MERIT AS REQUIRED BY CALIFORNIA HEALTH & SAFETY CODE § 25249.7(d)(1)** on the following party when a true and correct copy thereof was uploaded on the California Attorney General's website, which can be accessed at <https://oag.ca.gov/prop65/add-60-day-notice>:

Office of the California Attorney General
Prop 65 Enforcement Reporting
1515 Clay Street, Suite 2000
Oakland, CA 94612-0550

On June 18, 2018, I served the following documents **(1) NOTICE OF VIOLATIONS OF THE CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; (2) CERTIFICATE OF MERIT** were served on the following parties when a true and correct copy thereof was sent via electronic mail to the party listed below:

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

Dije Ndreu, Deputy District Attorney
Monterey County
1200 Aguajito Road
Monterey, CA 93940
Prop65DA@co.monterey.ca.us

Allison Haley, District Attorney
Napa County
931 Parkway Mall
Napa, CA 94559
CEPD@countyofnapa.org

Paul E. Zellerbach, District Attorney
Riverside County
3072 Orange Street
Riverside, CA 92501
Prop65@rivcoda.org

Anne Marie Schubert, District Attorney
Sacramento County
901 G Street
Sacramento, CA 95814
Prop65@sacda.org

Christopher Dalbey
Deputy District Attorney
Santa Barbara County
1112 Santa Barbara St.
Santa Barbara, CA 93101
DAProp65@co.santa-barbara.ca.us

Gregory Alker, Assistant District Attorney
San Francisco County
732 Brannan Street
San Francisco, CA 94103
gregory.alker@sfgov.org

Yen Dang, Supervising Deputy District
Attorney
Santa Clara County
70 W Hedding St
San Jose, CA 95110
EPU@da.sccgov.org
Stephan R. Passalacqua, District Attorney
Sonoma County
600 Administration Dr.
Sonoma, CA 95403
jbarnes@sonoma-county.org

Phillip J. Cline, District Attorney
Tulare County
221 S Mooney Blvd
Visalia, CA 95370
Prop65@co.tulare.ca.us

Gregory D. Totten, District Attorney
Ventura County
800 S Victoria Ave
Ventura, CA 93009
daspecialops@ventura.org

Jeff W. Reisig, District Attorney
Yolo County
301 Second Street
Woodland, CA 95695
cfepd@yolocounty.org

Nancy O'Malley, District Attorney
7776 Oakport Street, Suite 650
Oakland, CA 94621
CEPDProp65@acgov.org

Kathryn L. Turner, Chief Deputy City
Attorney
1200 Third Ave.
San Diego, CA 92101
CityAttyCrimProp65@sandiego.gov

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

Eric J. Dobroth, Deputy District Attorney
County Government Center Annex, 4th Floor
San Luis Obispo, CA 93408
edobroth@co.slo.ca.us

Jeffrey S. Rosell, District Attorney
701 Ocean Street
Santa Cruz, CA 95060
Prop65DA@santacruzcounty.us

On June 18, 2018, I served the following documents **(1) NOTICE OF VIOLATIONS OF THE CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; (2) CERTIFICATE OF MERIT** on each of the parties on the Service List attached hereto by placing a true and correct copy thereof in a sealed envelope with postage fully prepaid for delivery by First Class Mail, addressed to each of the entities on the Service List attached hereto, and placing the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service.

Executed on June 18, 2018, in Oakland, California.



Daniel Charlier-Smith

Service List

District Attorney
Alpine County
P.O. Box 248
Markleeville, CA 96120

District Attorney
Amador County
708 Court Street
Jackson, CA 95642

District Attorney
Butte County
25 County Center Drive,
Suite 245
Oroville, CA 95965

District Attorney
Calaveras County
891 Mountain Ranch Road
San Andreas, CA 95249

District Attorney
Colusa County
346 Fifth Street Suite 101
Colusa, CA 95932

District Attorney
Del Norte County
450 H Street, Room 171
Crescent City, CA 95531

District Attorney
El Dorado County
515 Main Street
Placerville, CA 95667

District Attorney
Fresno County
2220 Tulare Street, Suite
1000 Fresno, CA 93721

District Attorney
Glenn County
Post Office Box 430
Willows, CA 95988

District Attorney
Humboldt County
825 5th Street 4th Floor
Eureka, CA 95501

District Attorney
Imperial County
940 West Main St.
Ste 102
El Centro, CA 92243

District Attorney
Inyo County
230 W. Line Street
Bishop, CA 93514

District Attorney
Kern County
1215 Truxtun Avenue
Bakersfield, CA 93301

District Attorney
Kings County
1400 West Lacey
Boulevard Hanford, CA
93230

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

District Attorney
Los Angeles County 210
West Temple Street
Suite 18000
Los Angeles, CA 90012

District Attorney Madera
County
209 West Yosemite
Avenue Madera, CA 93637

District Attorney
Marin County
3501 Civic Center Drive
Room 130
San Rafael, CA 94903

District Attorney Mariposa
County
Post Office Box 730
Mariposa, CA 95338

District Attorney
Mendocino County
Post Office Box 1000
Ukiah, CA 95482

District Attorney
Merced County
550 W. Main Street
Merced, CA 95340

District Attorney
Modoc County
204 S Court Street, Room
202
Alturas, CA 96101-4020

District Attorney
Mono County
Post Office Box 617
Bridgeport, CA 93517

District Attorney
Nevada County
201 Commercial Street
Nevada City, CA 95959

District Attorney
Orange County
401 W. Civic Center Dr.
Santa Ana, CA 92701

District Attorney
Placer County
10810 Justice Center Dr.
Suite 240
Roseville, CA 95678

District Attorney
Plumas County
520 Main Street, Room 404
Quincy, CA 95971

District Attorney
San Benito County
419 Fourth Street, 2nd
Floor Hollister, CA 95023

District Attorney
San Bernardino County
316 N. Mountain View
Avenue San Bernardino,
CA 92415-0004

District Attorney
Shasta County
1355 West Street Redding,
CA 96001

District Attorney
Sierra County
PO Box 457
Downieville, CA 95936

District Attorney
Siskiyou County Post
Office Box 986
Yreka, CA 96097

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

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

District Attorney
Sutter County
446 Second Street
Yuba City, CA 95991

District Attorney
Tehama County
Post Office Box 519
Red Bluff, CA 96080

District Attorney
Trinity County
Post Office Box 310
Weaverville, CA 96093

District Attorney
Tuolumne County
423 N. Washington Street
Sonora, CA 95370

District Attorney
Yuba County
215 Fifth Street, Suite 152
Marysville, CA 95901

Los Angeles City
Attorney's Office
City Hall East
200 N. Main St., Ste. 800
Los Angeles, CA 90012

San Diego City Attorney's
Office
1200 3rd Ave., Ste 1620
San Diego, CA 92101

San Francisco City
Attorney's Office
City Hall, Room 234
1 Dr Carlton B Goodlett Pl.
San Francisco, CA 94102

San Jose City Attorney's
Office
200 East Santa Clara
Street, 16th Floor
San Jose, CA 95113