

NOTICE OF VIOLATION

California Safe Drinking Water and Toxic Enforcement Act

Acrylamide in Animal Cookies

March 19, 2020

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 508, Oakland, CA 94612, (510) 655-3900. CEH is a nonprofit corporation dedicated to protecting the environment, improving human health, and supporting environmentally sound practices. Caroline Cox is the Senior Scientist of and a responsible individual within CEH.

Description of Violation:

- Violator: The name and address of the violator is:

D.F. Stauffer Biscuit Co. Inc.
360 S. Belmont Street
York, PA 17403
- Time Period of Exposure: The violations have been occurring since at least March 19, 2017, and are continuing to this day.
- 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 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 animal cookies (the “Products”). A non-exclusive example of this specific type of product is the Stauffer’s Animal Cookies – Iced, SKU No. 0-72320-13350-8.
- 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 the 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 the alleged violator unless the 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 the 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 the 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 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 acrylamide in such Products; and representative exemplars of each lot of such Products sold by the 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@lexlawgroup.com.

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 party identified in the notice has 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 violator 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.

March 19, 2020



Howard Hirsch
Attorney for CENTER FOR
ENVIRONMENTAL HEALTH

1 **PROOF OF SERVICE**

2

3 I, Nick Redfield, declare:

4 I am a citizen of the United States and employed in the County of San Francisco, State of
5 California. I am over the age of eighteen (18) years and not a party to this action. My business
6 address is 503 Divisadero Street, San Francisco, CA 94117 and my email address is
nredfield@lexlawgroup.com.

7 On March 19, 2020, I served the following document(s) on all interested parties in this
8 action by placing a true copy thereof in the manner and at the addresses indicated below:

9 **NOTICE OF VIOLATION OF CALIFORNIA SAFE DRINKING WATER AND
10 TOXIC ENFORCEMENT ACT;**

11 **CERTIFICATE OF MERIT;** and

12 **THE SAFE DRINKING AND TOXIC ENFORCEMENT ACT OF 1986**
13 **(PROPOSITION 65): A SUMMARY** (only sent to those on service list marked with an
14 asterisk).

15 ☒ **BY MAIL:** I am readily familiar with the firm's practice for collecting and processing mail
16 with the United States Postal Service ("USPS"). Under that practice, mail would be deposited
17 with USPS that same day with postage thereon fully prepaid at San Francisco, California in the
18 ordinary course of business. On this date, I placed sealed envelopes containing the above
mentioned documents for collection and mailing following my firm's ordinary business practices.

19 *Please see attached service list.*

20 ☒ **BY ELECTRONIC MAIL:** I transmitted a PDF version of the document(s) listed above via
21 email to the email address(es) indicated on the attached service list [or noted above] before 5 p.m.
22 on the date executed.

23 Stacey Grassini, Deputy District Attorney
24 Contra Costa County
25 900 Ward Street
26 Martinez, CA 94553
27 sgrassini@contracostada.org

Allison Haley, District Attorney
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28 Michelle Latimer, Program Coordinator
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11 Dije Ndreu, Deputy District Attorney
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16 Tori Verber Salazar, District Attorney
17 San Joaquin County
18 222 E. Weber Avenue, Room 202
19 Stockton, CA 95202
20 DAConsumer.Environmental@sjcda.org

21 Christopher Dalbey, Deputy District
22 Attorney, Santa Barbara County
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24 Santa Barbara, CA 93101
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Office of the District Attorney
Calaveras County
891 Mountain Ranch Road
San Andreas, CA 95249
Prop65Env@co.calaveras.ca.us

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on March 19, 2020 at San Francisco, California.



Nick Redfield

SERVICE LIST

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

District Attorney of Amador County
708 Court Street, Ste. 202
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District Attorney of Butte County
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California Attorney General's Office
Attention: Proposition 65 Coordinator and
Robert Thomas
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Jim Wilson, CEO*
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