

NOTICE OF VIOLATION

California Safe Drinking Water and Toxic Enforcement Act

Nicotine Exposures Resulting from Use of Oral Smokeless Nicotine Products such as Gum,
Snus, Snuff, Lozenges, Cotton Mouth and Chewing Tobacco
August 1, 2024

This 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 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. Emily Reder is the Senior Manager of the Consumer Protection Team and a responsible individual within CEH.

Description of Violation:

- Violator:

Northerner Scandinavia Inc.
631 Highway 90A
Missouri City, TX, 77489
- Time Period of Exposure: The violations have been occurring since at least August 1, 2021, 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 nicotine. Exposures to nicotine occur from use of the products identified in this Notice. Nicotine is a chemical known to cause developmental and reproductive harm.
- Types of Products: The specific types of products causing these violations are Oral Smokeless Nicotine Products such as Gum, Snus, Snuff, Lozenges, Cotton Mouth and Chewing Tobacco (“Oral Smokeless Nicotine Products”). Non-exclusive examples of the Oral Smokeless Nicotine Products are listed in Exhibit 1.

- **Description of Exposure:** This Notice addresses consumer exposures to nicotine. Use of the Oral Smokeless Nicotine Products identified in this Notice result in human exposures to nicotine. The Oral Smokeless Nicotine Products contain significant amounts of nicotine to which users are exposed when the products are used in the intended manner. The primary route of exposure for the violations is ingestion when consumers place the Products in their mouths and on their gums. These exposures occur in homes, workplaces and everywhere else throughout California where the Oral Smokeless Nicotine Products are used. No clear and reasonable warning is provided with these Oral Smokeless Nicotine Products regarding the reproductive and developmental toxicity of nicotine.

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 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; 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 nicotine in the Oral Smokeless Nicotine Products; actual or potential exposures to nicotine from use of such Oral Smokeless Nicotine Products; purchase and sales information for such Oral Smokeless Nicotine Products; efforts to comply with Proposition 65 with respect to such Products; communications with any person relating to actual or potential exposures to nicotine from use of such Oral Smokeless Nicotine Products; and representative exemplars of each unit of any such products sold by the alleged violator since August 1, 2021, through the date of any trial of the claims alleged in this Notice.

Please direct any inquiries regarding this Notice to CEH's counsel Mark N. Todzo at Lexington Law Group, 503 Divisadero Street, San Francisco, CA 94117, (415) 913-7800, mtodzo@lexlawgroup.co

EXHIBIT 1
August 1, 2024 Notice of Violation
Nicotine Exposures Resulting From Use of Oral
Smokeless Nicotine Products

Name and Address of Responsible Party	Non-Exclusive Exemplar Products
<p style="text-align: center;">Northerner Scandinavia Inc. 631 Highway 90A Missouri City, TX, 77489</p>	<p>Lucy Pomegranate 4MG Nicotine Gum; 4 mg nicotine; 10 pieces, manufactured by Lucy Goods Inc., UPC No. 8-60000-36393-8</p> <p>Copenhagen Long Cut Smokeless Tobacco; C376Y-GJJ6-PPJ6, UPC No. 0-738761-4, Sell By: Oct 06, 2024; 0122K1130; Net weight 1.2 oz/34.02 g; Nicotine Level: Regular</p> <p>Camel Snus, Frost Large, R.J. Reynolds Tobacco Company, Winston-Salem, NC 27102, Tax Class M. Net Wt. 0.53 oz (15 g); 100% imported Tobacco, 20022952, 15 pouches, UPC No. 0-123403-6; Nicotine Level: Regular</p> <p>Stoker's Fred's Choice 160z; Flavor: Vanilla; Net Wt. 16 (oz); Net Weight (g) 453.59 UPC No. 7-99953-03710-1; Distributed by National Tobacco Company, L.P., Louisville, KY; L154R1</p> <p>Blue Lemon Cotton Mouth; Flavor: Citrus, 1mg nicotine per ball; 6 balls or 6mg nicotine per serving; UPC No. 8-40439-16762-8; L144</p>

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

I, Mark N. Todzo, 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 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.

August 1, 2024



Mark N. Todzo
Attorney for CENTER FOR
ENVIRONMENTAL HEALTH

1 **PROOF OF SERVICE**

2 I, Star Beltman, declare:

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

6 On August 1, 2024, I served the following document(s) on all interested parties in this
7 action by placing a true copy thereof in the manner and at the addresses indicated below:

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

9 **CERTIFICATE OF MERIT;** and

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

12 **BY MAIL:** I am readily familiar with the firm's practice for collecting and processing mail
13 with the United States Postal Service ("USPS"). Under that practice, mail would be deposited
14 with USPS that same day with postage thereon fully prepaid at San Francisco, California in the
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.

15 *Please see attached service list.*

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

18 Pamela Y. Price, Alameda District Attorney
7677 Oakport Street, Suite 650
19 Oakland, CA 94621
CEPDProp65@acgov.org

Lisa A. Smittcamp, Fresno District Attorney
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20 Barbara Yook, Calaveras District Attorney
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1	Walter W. Wall, Mariposa District Attorney P.O. Box 730 Mariposa, CA 95338 mcda@mariposacounty.org	Mark Ankcorn, San Diego Deputy City Attorney 1200 Third Avenue San Diego, CA 92101 CityAttyProp65@sandiego.gov
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3	Kimberly Lewis, Merced District Attorney 550 West Main Street Merced, CA 95340 Prop65@countyofmerced.com	Henry Lifton, San Francisco Deputy City Attorney 1390 Market Street, 7th Floor San Francisco, CA 94102 Prop65@sfcityatty.org
4		
5	Jeannine M. Pacioni, Monterey District Attorney 1200 Aguajito Road Monterey, CA 93940 Prop65DA@co.monterey.ca.us	Alexandra Grayner, San Francisco Assistant District Attorney 350 Rhode Island Street San Francisco, CA 94103 alexandra.grayner@sfgov.org
6		
7	Allison Haley, Napa District Attorney 1127 First Street, Suite C Napa, CA 94559 CEPD@countyofnapa.org	Tori Verber Salazar, San Joaquin District Attorney 222 E. Weber Avenue, Room 202 Stockton, CA 95202 DAConsumer.Environmental@sjcda.org
8		
9	Clifford H. Newell, Nevada District Attorney 201 Commercial Street Nevada City, CA 95959 DA.Prop65@co.nevada.ca.us	Eric J. Dobroth, San Luis Obispo Deputy District Attorney County Government Center Annex, 4th Floor San Luis Obispo, CA 93408 edobroth@co.slo.ca.us
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11	Morgan Briggs Gire, Placer District Attorney 10810 Justice Center Drive Roseville, CA 95678 prop65@placer.ca.gov	Christopher Dalbey, Santa Barbara Deputy District Attorney 1112 Santa Barbara St. Santa Barbara, CA 93101 DAProp65@co.santa-barbara.ca.us
12		
13	David Hollister, Plumas District Attorney 520 Main St. Quincy, CA 95971 davidhollister@countyofplumas.com	Nora V. Frimann, Santa Clara City Attorney 200 E. Santa Clara Street, 16th Floor San Jose, CA 96113 Proposition65notices@sanjoseca.gov
14		
15	Paul E. Zellerbach, Riverside District Attorney 3072 Orange Street Riverside, CA 92501 Prop65@rivcoda.org	Bud Porter, Supervising Santa Clara, Deputy District Attorney 70 W Hedding St San Jose, CA 95110 EPU@da.sccgov.org
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17	Anne Marie Schubert, Sacramento District Attorney 901 G Street Sacramento, CA 95814 Prop65@sacda.org	Jeffrey S. Rosell, Santa Cruz District Attorney 701 Ocean Street Santa Cruz, CA 95060 Prop65DA@santacruzcounty.us
18		
19	Summer Stephan, San Diego District Attorney 330 West Broadway San Diego, CA 92101 SanDiegoDAProp65@sdacda.org	
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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on August 1, 2024 at San Francisco, California.



Star Beltman

SERVICE LIST

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P.O. Box 248
Markleeville, CA 96120

District Attorney of Amador County
708 Court St, Ste. 202
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District Attorney of Colusa County
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