

Mr Gary VEREB
Trading as Apricot Seeds
25 Newcastle Drive
POTTSVILLE NSW 2489

7 November 2011

By Express Post

Dear Mr Vereb

WARNING – POTENTIAL OFFENCES UNDER THE FOOD ACT 2003 (NSW)

It is the Authority's view that some food products you intend to sell, or are presently for sale in New South Wales, are in breach of the Food Act 2003 (NSW) ("the Act").

The NSW Food Authority (*Authority*) is the Government Agency which is responsible for ensuring the production and sale of safe and correctly labelled food in New South Wales.

The Authority has received a complaint from Queensland Health regarding the sale and advertising of Apricot seeds sold on your website www.apricotseeds.com.au that are labelled in a manner that is in contravention of the *Food Act 2003* and the Food Standards Code (Code). Analysis of your apricot seeds conducted by Queensland Health found a level of Hydrocyanic acid of 1700 mg/kg (see attached certificate).

An investigation into the sale and advertising of products on including product advertising claims on this website consequently commenced. In exercising my powers as an Authorised Officer I have purchased a 1kg package of apricot seeds, from your website, for the purpose of analysis under Part 6 of the Food Act 2003. A portion of this sample is returned to you with this letter.

As the operator of a food business you need to comply with the *Food Act (NSW) 2003 (Act)* and the *Australia and New Zealand Food Standards Code* (the Code). At this moment you are failing to comply with section 21(3) of the *Food Act 2003 (NSW)*.

Section 21(3) provides:

A person must not sell or advertise for sale any food that is packaged or labelled in a manner that contravenes a provision of the Food Standards Code.

The following information is in relation to the product label for Apricot seeds and advertisement breaches of the Food Standards Code

NSW Food Authority ABN 47 080 404 416 6 Avenue of the Americas, Newington NSW 2127

Postal Address: PO Box 6682, Silverwater NSW 1811 Reception: 02 9741 4777 Fax: 02 9741 4888

Consumer and Industry Helpline: 1300 552 406 Fax: 02 9647 0026 Email: contact@foodauthority.nsw.gov.au

www.foodauthority.nsw.gov.au

Offence(s)	Issue(s)
Breach of Standard 1.2.6 clause 1 on label	<p>Clause 1 provides for directions for the use of the food if the food is of a nature as to require the directions for health or safety reasons.</p> <p>It is the NSW Food Authority's view that your apricot seeds do require such direction for the following reasons:-</p> <ol style="list-style-type: none"> 1. level of 1700mg/kg of hydrocyanic acid found by previous analysis by Queensland Health. 2. Other analytical data shows that the inherit levels of cyanogenic glycosides in bitter apricot kernels can vary and often to a level in excess of >2000mg /kg of cyanide. 3. A recent toxicological review conducted by Food Stanadrds Austrailia New Zealand found that a daily consumption in excess of 4 kernels per day may be sufficient to cause acute adverse health effects in adults (i.e. 0.7 mg/kg bw) . <p>The direction may take the form:-</p> <ol style="list-style-type: none"> 1. of a maximum amount of seeds to be consumed and / or 2. directions of treatment or processing of the apricot seeds to reduce the level of hydrocyanic acid to a safe level. <p>A general warning statement should also be considered in relation to it unsuitability of the food for children and for those persons that are malnourished.</p>
Breach of Standard 1.2.2 clause 2 & 3 on label	<p>Clause 2 requires a label to include a lot identification to identify the daily processing lot to be identified of the retail package.</p> <p>Clause 3 requires a label to include full name and business location address of the Australian supplier of the food.</p>
Breach of Standard 1.2.11 clause 2 & 3 on label	<p>Clause 2 requires a label to include a statement of the country of origin where the food was made or produced.</p>
Breach Standard 1.1A.2 clause 3 (a) on website	<p>Website advertising claims for a therapeutic or prophylactic action. The following claims are in contravention clause 3(a):</p> <p>The following statements are in contravention of clause 3(d):</p> <ul style="list-style-type: none"> ▪ Statement referencing Dr Ernest Krebs and reference to therapeutic value of Laetrile in apricot seeds in treatment of cancer. ▪ Statement referencing Dr Contreras regarding the use of apricot seeds in metabolic therapy" ▪ Various references in to Type Blood group diets of therapeutic or prophylactic action in relation to cancer.

Offence(s)	Issue(s)
Breach of Health Claims Standard 1.1A.2 clause 3 (c) on website	<p>Clause 3(c) prohibits any word, statement, claim, express or implied or design that directly or indirectly or by implication could be interpreted as advice of a medical nature.</p> <p>The following statements are in contravention of clause 3(c):</p> <ul style="list-style-type: none"> ▪ Statement referencing Dr Ernest Krebs and reference to therapeutic value of Laetrile in apricot seeds in treatment of cancer. ▪ Statement referencing Drs Contreras of the Oasis of Hope Hospital regarding the use of apricot seeds in metabolic therapy" ▪ References to Metabolic Therapy recommended and maintenance doses ▪ Blood group diets.
Breach of Health Claims Standard 1.1A.2 clause 3 (d) on website	<p>Clause 3(d) prohibits the name of or a reference to ay disease or physiological condition on the label or attached to a package or any advertising claims for a therapeutic of prophylactic action.</p> <p>References to cancer, cancer cells, tumours, constitutes a reference to a disease or physiological condition and therefore contravenes clause 3(d).</p>

The Food Standards Code (the 'Code') can be viewed on Food Standards Australia New Zealand website at:

<http://www.foodstandards.gov.au/foodstandards/foodstandardscode.cfm>.

Please also refer to the Authority's Compliance and Enforcement Policy, available for download from www.foodauthority.nsw.gov.au.

You are hereby **warned** on this occasion that you have rendered yourself liable to prosecution under the Act. Further examination of the above products including but not limited to health claims made on the website may be undertaken. In the event of non-compliance proceedings as provided by law may be undertaken without further warning. **In the case of an offence, the maximum penalty is 500 penalty units (\$55,000) for an individual, and 2,500 penalty units (\$275,000) for a corporation.**

Yours Sincerely,



Ian Beer
Authorited Officer
Team leader Enfocement