

# HEALTHYLIVING FOUNDATION

## VIA CERTIFIED MAIL

Michael D. Deal or Manager/CEO  
Amazon.com Services LLC  
410 Terry Avenue N.  
Seattle, Washington 98109

Current Manager or CEO Amazon.com  
Services LLC  
c/o CSC-Lawyers Incorporating Service  
2710 Gateway Oaks Drive, Suite 150N  
Sacramento, California 95833

Ryan Gellert, CEO  
Patagonia, Inc., Patagonia Works, Patagonia  
Provisions, Inc.  
259 W Santa Clara St.  
Ventura, CA 93001

Current General Counsel, Secretary  
Patagonia, Inc., Patagonia Works, Patagonia  
Provisions, Inc.  
c/o CT Corporation System  
818 W 7th St, Suite 930  
Los Angeles, CA 90017

Hilary Dessouky  
General Counsel and Secretary  
Patagonia, Inc., Patagonia Works, Patagonia  
Provisions, Inc.  
259 W Santa Clara St.  
Ventura, CA 93001

Current CEO or President  
Patagonia, Inc., Patagonia Works, Patagonia  
Provisions, Inc.  
c/o CT Corporation System  
818 W 7th St, Suite 930  
Los Angeles, CA 90017

## VIA ELECTRONIC FILING

State of California Department of Justice  
Office of Attorney General of California  
Filing link: [oag.ca.gov/prop65](http://oag.ca.gov/prop65)

## VIA U.S. MAIL

District Attorneys of California Counties  
and City Attorneys, as in the Certificate of  
Service

## VIA E-MAIL

District Attorneys of California Counties  
and City Attorneys, as in the Certificate of  
Service

# HEALTHY LIVING FOUNDATION

November 10, 2020

## 60-DAY NOTICE

*Of intent to sue*

*for violations of the Safe Drinking Water and Toxic Enforcement Act of 1986*

The Safe Drinking Water and Toxic Enforcement Act of 1986, codified in California Health & Safety Code sections 25249.5, *et seq.* (referred to as "Proposition 65"), requires that a 60-day notice of intent to sue be provided to a violator of CAL. HEALTH & SAFETY CODE § 25249.6.

Chemical Toxin Working Group, Inc., a California non-profit corporation, doing business as Healthy Living Foundation ("HLF"), is a non-profit consumer health organization engaged in activities supporting public health, implementing measures reducing the amount of chemical toxins in consumer products, improvement of worker and consumer safety from chemical exposures.

HLF has prosecuted a large number of CAL. HEALTH & SAFETY CODE violations in the public interest. These cases have resulted in significant public benefit, including reformulation of hundreds of products to remove toxic chemicals to make them safer, and removal of heavily contaminated products containing lead, cadmium, acrylamide, dioxane, from the market in California and in the US.

CTWG's Chief Officer David Steinman is a publisher, a health journalist and author of a bestseller DIET FOR A POISONED PLANET (Crown ed., 1990, Ballantine 2d ed., 1992, Running Press 3d ed., 2007); his major books also include THE SAFE SHOPPER'S BIBLE (Macmillan ed., 1995, Wiley 2d ed., 2000), THE BREAST CANCER PREVENTION PROGRAM (Macmillan ed., 1997), LIVING HEALTHY IN A TOXIC WORLD (Perseus ed., 1996), SAFE TRIP TO EDEN: TEN STEPS TO SAVE THE PLANET EARTH FROM THE GLOBAL WARMING MELTDOWN (Running Press ed., 2007), along with many publications as the publisher of *Healthy Living* magazine and its associated websites, periodicals and other medias.

In its role as a public enforcer acting on behalf of California Attorney General, HLF buys foods and other consumer products through ordinary consumers' channels, tests them in independent accredited laboratories and reports results of both positive

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1801 Chart Trail Topanga, CA 90290

[www.HealthyLivingFoundation.US](http://www.HealthyLivingFoundation.US) email: [info@HealthyLivingMagazine.US](mailto:info@HealthyLivingMagazine.US)

and negative nature to the public through the various news outlets and its own platforms and periodicals. Over the last 20 years, HLF has developed an extensive expertise in prosecuting manufacturers and distributors of food and consumer products for most egregious violations of health laws and consumer safety.

With this notice of violation (NOV), HLF gives a written notice of the alleged violation, bringing this action in the public interest as defined under the CAL. HEALTH & SAFETY CODE § 25249.7(d), seeking to prosecute the continuing and repeated noncompliance and to reduce and/or eliminate consumer exposures to lead from snack foods (collectively, the "Specified Products" and each a "Specified Product") listed in the table below, which are manufactured, distributed and/or sold by Patagonia, Inc., Patagonia Works, Patagonia Provisions, Inc. (collectively "Patagonia"), Amazon.com Services LLC ("Amazon")(Patagonia, Inc. Patagonia Works, Patagonia Provisions, Inc., and Amazon are collectively referred to as "Noticed Parties" and each a "Noticed Party").

This NOV covers the violations of Proposition 65 that are currently known to the noticing party from information now available as specifically related to the violating products listed below and manufactured, distributed or/and sold by and through the Noticed Parties. HLF is continuing its investigation that may reveal further violations.

The Specified Products subject to this NOV, the chemical in the Specified Product identified as exceeding allowable levels, and the Noticed Party responsible for sale of the Specified Product, are the following:

<b>Specified Products</b>	<b>Violative chemical</b>	<b>Noticed Parties</b>
Savory Sofritos Mussels in Olive Oil + Broth	Lead	Patagonia, Amazon
Lemon Herb Mussels in Olive Oil + Broth	Lead	Patagonia, Amazon
Smoked Mussels in Olive Oil + Broth	Lead	Patagonia, Amazon

Noticed Parties have manufactured, marketed, distributed and/or sold the Specified Products which have exposed and continue to expose consumers within the State of California to lead.

Lead was listed pursuant to Proposition 65 as a chemical known to the State of California to cause developmental toxicity and reproductive toxicity on February 27, 1987, and as a chemical known to the State of California to cause cancer on October 1, 1992.

With respect to each Specified Product listed above, the violation commenced on the latter of the date that the Specified Product was first offered for sale in California or the date upon which California law codified the allowable level of the relevant chemical; has continued every day since the relevant date the violation commenced; and will continue every day henceforth until lead is removed from each Specified Product, reduced to allowable levels, or until a "clear and reasonable" warning is

provided to consumers by the Noticed Parties, as applicable, in accordance with the law.

The primary route of exposure has been through ingestion.

CAL. HEALTH & SAFETY CODE § 25249.6 requires that a "clear and reasonable" warning be provided prior to exposure to chemicals listed under Proposition 65. The Noticed Parties are in violation of Proposition 65 because the Noticed Parties have failed to provide a warning to consumers that they are being exposed to lead. While in the course of doing business, the Noticed Parties are knowingly and intentionally exposing consumers to lead without first providing a "clear and reasonable" warning.

The method of warning should be a warning that appears on the product's label. See Cal. Code Regs. tit. 27, § 25602, subd. (a)(3), and subd. (b) for internet purchases also at the point of sale, as applicable. The Noticed Parties have not provided any Proposition 65 warnings as required by law, any other appropriate warnings that persons handling, ingesting and/or otherwise using the Specified Products are being exposed to lead.

Pursuant to Title 27, C.C.R. § 25903(b), copies of the documents entitled (i) "The Safe Drinking Water and Toxic Enforcement act of 1986 (Proposition 65): A Summary" and (ii) "The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): Special Compliance Procedure" are attached hereto for reference by the Noticed Parties.

Pursuant to Title 11, C.C.R. § 3100, the "Certificate of Merit" is attached hereto.

HLF is providing an option of a prompt resolution of this matter where the Noticed Parties would agree in writing to (1) eliminate or reduce lead to an allowable level in the Specified Products or (2) as an alternative to (1), provide an appropriate warning on the label of the Specified Products, at the point of sale, as applicable; and (3) pay an appropriate civil penalty for each violation.

Such a resolution will prevent further unwarned consumer exposures by expeditiously rectifying these ongoing violations of the California law and afford to the Noticed Parties to avoid litigation.

Please direct all communications regarding this NOV to my office.

Sincerely,

A handwritten signature in cursive script that reads "David Steinman".

David Steinman  
Info@HealthyLivingMagazine.US



## Attachments

1. Certificate of Merit;
2. Additional Supporting Information for Certificate of Merit (to Attorney General only);
3. Appendix "A" - "The Safe Drinking Water and Toxic Enforcement act of 1986 (Proposition 65): A Summary" (to the Noticed Parties only);
4. Appendix "B"- "The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): Special Compliance Procedure" (to the Noticed Parties only);
5. Certificate of Service.

To: California Attorney General  
Notice of Violation: November 10, 2020  
Noticing Party: Chemical Toxin Working Group/  
Healthy Living Foundation  
Noticed Parties: Patagonia, Inc., Patagonia Works, Patagonia Provisions,  
Inc., Amazon.com Services LLC

*November 13, 2020*

## **CERTIFICATE OF MERIT**

### *To the Notice of Violation*

I, David Steinman, chief officer of the noticing party, hereby certify that I have reviewed the facts of this case and have consulted with one or more persons with relevant and appropriate experience and expertise who have reviewed facts, studies, and/or other data regarding the alleged exposures to the listed chemical that is the subject of the Notice of Violation dated November 10, 2020 (the "NOV").

I have reviewed the laboratory testing results for the chemical subject to the NOV and rely on these results. The testing was conducted by a reputable accredited testing laboratory and by experienced scientists with doctoral and other degrees in relevant sciences. The facts, studies and other data derived through this investigation overwhelmingly demonstrate that the alleged violators expose persons to the listed chemical that is the subject of this Certificate and is known to the State of California to cause reproductive harm or cancer.

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 will likely be established and that the information did not prove that the alleged violators will be able to prove any of affirmative defenses set forth in the statute.

Factual information sufficient to establish the basis for this Certificate, as identified in Cal. Health & Safety Code § 25249.7 (h)(2), *i.e.* (1) identity of the persons consulted with and relied on by the certifier, and (2) facts, studies and/or other data reviewed by those persons, is attached to this Certificate and served on the California Attorney General.



David Steinman  
Chief Officer  
The Chemical Toxin Working Group, Inc.

## CERTIFICATE OF SERVICE

I, Hunter Steinman, am over the age of eighteen years and am not a party to the action, process or case related to or arising out of the Notice of Violation being served under this Certificate of Service. My address is 1801 Chart Trail, Topanga, CA 90290.

On November 27, 2020, I served the following documents:

1. Notice of Violations of California Health & Safety Code Section 25249.5 et seq. by Patagonia, Inc., Patagonia Works, Patagonia Provisions, Inc. (collectively "Patagonia"), Amazon.com Services LLC
2. Certificate of Merit
3. Appendix "A" - "The Safe Drinking Water and Toxic Enforcement act of 1986 (Proposition 65): A Summary"
4. Appendix "B" - "The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): Special Compliance Procedure"

on the following parties by placing a true and correct copy thereof in a sealed envelope, addressed to the parties below, and causing it to be deposited at a United States Postal Service Office in Los Angeles, California, for delivery by Certified Mail:

Michael D. Deal or Manager/CEO Amazon.com Services LLC 410 Terry Avenue N. Seattle, Washington 981 09	Current Manager or CEO Amazon.com Services LLC c/o CSC-Lawyers Incorporating Service 271 0 Gateway Oaks Drive, Suite 150N Sacramento, California 95833
Ryan Gellert, CEO Patagonia, Inc., Patagonia Works, Patagonia Provisions, Inc. 259 W Santa Clara St. Ventura, CA 93001	Current General Counsel/Secretary Patagonia, Inc., Patagonia Works, Patagonia Provisions, Inc. c/o CT Corporation System 818 W 7th St, Suite 930 Los Angeles, CA 90017
Hilary Dessouky General Counsel and Secretary Patagonia, Inc., Patagonia Works, Patagonia Provisions, Inc. 259 W Santa Clara St. Ventura, CA 93001	Current CEO or President Patagonia, Inc., Patagonia Works, Patagonia Provisions, Inc. c/o CT Corporation System 818 W 7th St, Suite 930 Los Angeles, CA 90017

On November 27, 2020, I served the following documents:

1. Notice of Violations of California Health & Safety Code Section 25249.5 et seq. by Patagonia, Inc., Patagonia Works, Patagonia Provisions, Inc. (collectively "Patagonia"), Amazon.com Services LLC
2. Certificate of Merit
3. Additional Information and Supporting Documentation Required by Title 11, C.C.R. § 3102

on the following parties by filing electronically a true and correct copy thereof as permitted through the website of the California Office of the Attorney General via link at [oag.ca.gov/prop65](http://oag.ca.gov/prop65):

State of California Department of Justice  
Office of the Attorney General of California.

On November 27, 2020, I served the following documents:

1. Notice of Violations of California Health & Safety Code Section 25249.5 et seq. by Patagonia, Inc., Patagonia Works, Patagonia Provisions, Inc. (collectively "Patagonia"), Amazon.com Services LLC
2. Certificate of Merit

on the following parties below by placing a true and correct copy thereof in a sealed envelope, addressed to each of the District Attorney and City Attorney offices listed below, and causing each envelope to be deposited at a United States Postal Service mail box for delivery by First Class Mail:

District Attorney Alpine County PO Box 248 Markleeville, CA 96120	District Attorney Lake County 255 North Forbes Street Lakeport, CA 95453	District Attorney San Diego County 330 West Broadway, Suite 1300 San Diego, CA 92101
District Attorney San Diego County 330 West Broadway, Suite 1300 San Diego, CA 92101	District Attorney Marin County 350 Civic Center Drive, Room 130 San Rafael, CA 94903	District Attorney Sierra County PO Bpox 457 Downieville, CA 95936
District Attorney Del Norte County 450 H Street, Suite 171 Crescent City, CA 95531	District Attorney Mendocino County PO Box 1000 Ukiah, CA 95482	District Attorney Sutter County 446 Second Street Yuba City, CA 95991
District Attorney Sutter County 446 Second Street Yuba City, CA 95991	District Attorney Orange County 401 Civic Center Drive Santa Ana, CA 92701	District Attorney Tehama County PO Box 519 Red Bluff, CA 96080
District Attorney Fresno County 2220 Tulare Street, Suite 1000 Fresno, CA 93721	District Attorney San Bernardino County 316 No. Mountain View Avenue San Bernardino, CA 92415	District Attorney Tuolumne County 423 North Washington St. Sonora, CA 95370
District Attorney Imperial County 940 West Main Street, Suite 102 El Centro, CA 92243	District Attorney San Benito County 419 4 <sup>th</sup> Street Hollister, CA 95023	
District Attorney Kings County 1400 West Lacey Blvd. Hanford, CA 93230	District Attorney Shasta County 1355 West Street Redding, CA 96001	

On November 27, 2020, I served the following documents:

1. Notice of Violations of California Health & Safety Code Section 25249.5 et seq. by Patagonia, Inc., Patagonia Works, Patagonia Provisions, Inc. (collectively "Patagonia"), Amazon.com Services LLC
2. Certificate of Merit

on each of the parties below, all of which have requested electronic service only via the following email addresses:

District Attorney Alameda County 1225 Fallon Street, Suite 900 Oakland, CA 94612 CEPDProp65@acgov.org	District Attorney Merced County 550 W. Main Street Merced, CA 95340 laura.saunders@countyofmerced.com	District Attorney San Mateo County 400 County Center, 3 <sup>rd</sup> Floor Redwood City, CA 94063 Da_efiles@smcgov.org
District Attorney Amador County 708 Court Street, Suite 202 Jackson, CA 95642 cculbertson@amador.gov.org	District Attorney Modoc County 204 S. Court Street, Room 202 Alturas, CA 96101 da@co.modoc.ca.us	District Attorney Santa Barbara County 1112 Santa Barbara Street Santa Barbara, CA 93101 DAProp65@co.santa-barbara.ca.us
District Attorney Butte County 25 Country Center Drive, Suite 245 Oroville, CA 95965 da@buttecounty.net	District Attorney Mono County PO Box 617 Bridgeport, CA 93517 districtattorney@mono.ca.gov	District Attorney Santa Clara County 70 West Hedding Street San Jose, CA 95110 EPU@da.sccgov.org
District Attorney Calaveras County 891 Mountain Ranch Road San Andreas, CA 95249 Prop65Env@co.calaveras.ca.us	District Attorney Monterey County 1200 Aguajito Road Monterey, CA 93940 Prop65DA@co.monterey.ca.us	District Attorney Santa Cruz County 801 Ocean Street, Room 200 Santa Cruz, CA 95060 Prop65DA@santacruzcounty.us
District Attorney Colusa County 346 Fifth Street, Suite 101 Colusa, CA 95932 dkelley@countyofcolusa.org	District Attorney Napa County 1127 First Street, Suite C Napa, CA 94559 CEPD@countyofnapa.org	San Diego City Attorney's Office 1200 3 <sup>rd</sup> Avenue, Suite 1620 San Diego, CA 92101 CityattyProp65@sandiego.gov
District Attorney Contra Costa County 900 Ward Street Martinez, CA 94553 sgrassini@conracostada.org	District Attorney San Joaquin County 222 E. Weber Avenue, Room 202, Stockton CA 95202 DAConsumer.Environmental@sjcda.org	San Francisco City Attorney City Hall, Room 234 1 Dr. Carlton B. Goodlett Place San Francisco, CA 94102 Valerie.lopez@sfcityatty.org
District Attorney Glenn County PO Box 430 Willows, CA 95988 rneumann@countyofglenn.net	District Attorney San Luis Obispo County County Government Center Annex San Luis Obispo, CA 93408 edobroth@co.slo.ca.us	District Attorney Siskiyou County PO Box 986 Yreka, CA 96097 da@siskiyouda.org
District Attorney Humboldt County 825 5 <sup>th</sup> Street 4 <sup>th</sup> Floor Eureka, CA 95501 districtattorney@co.humboldt.ca.us	District Attorney Monterey County 1200 Aguajito Road Monterey, CA 93940 Prop65DA@co.monterey.ca.us	District Attorney Solano County 675 Texas Street, Suite 4500 Fairfield, CA 94533 solanoda@solanocounty.com
District Attorney Inyo County PO Drawer D Independent, CA 93526 lnyoda@inyocounty.org	District Attorney Nevada County 201 Commercial Street Nevada City, CA 95959 da.prop65@co.nevada.ca.us	District Attorney Sonoma County 600 Administrative Drive Sonoma, CA 95403 jrvatch@sonoma-county.org
District Attorney Kern County 1215 Truxtun Avenue Bakersfield, CA 93301 bakersfieldmotions@kernda.org	District Attorney Placer County 10810 Justice Center Drive, Suite 240 Roseville, CA 95689 infopcda@placer.ca.gov	District Attorney Stanislaus County 832 12 <sup>th</sup> Street, Suite 300 Modesto, CA 95354 acceptservice@standa.org
District Attorney Lassen County 220 South Lassen Street, Suite 8 Susanville, CA 96130 mlatimer@co.lassen.ca.us	District Attorney Plumas County 520 Main Street, Room 404 Quincy, CA 95911 districtattorney@countyofplumas.com	District Attorney Trinity County PO Box 310 Weaverville, CA 96093 district_attorney@trinitycounty.org

District Attorney Los Angeles County 210 West Temple Street, Suite 18000 Los Angeles, CA 90012 info@da.lacounty.gov	District Attorney Riverside County 3072 Orange Street Riverside, CA 92501 Prop65@rivcoda.org	District Attorney Tulare County 221 S. Mooney Blvd. Visalia, CA 95370 Prop65@co.tulare.ca.us
Los Angeles City Attorney's Office City Hall East 200 North Main Street, Suite 600 Los Angeles, CA 90012 <a href="mailto:mike.n.feuer@lacity.org">mike.n.feuer@lacity.org</a>	Oakland City Attorney City Hall, 6 <sup>th</sup> Floor 1 Frank Ogawa Plaza Oakland, CA 94612 <a href="mailto:claims@oaklandcityattorney.org">claims@oaklandcityattorney.org</a>	District Attorney Ventura County 800 South Victoria Avenue, Suite 314 Ventura, CA 93009 <a href="mailto:dasspecialops@ventura.org">dasspecialops@ventura.org</a>
District Attorney Madera County 209 West Yosemite Avenue Madera, CA 93637 <a href="mailto:maderada@maderacounty.com">maderada@maderacounty.com</a>	District Attorney Sacramento County 901 "G" Street Sacramento, CA 95814 Prop65@sacda.org	District Attorney Yolo County 301 Second Street Woodland, CA 95695 <a href="mailto:cfepd@yolocounty.org">cfepd@yolocounty.org</a>
District Attorney Mariposa County PO Box 730 Mariposa, CA 95338 <a href="mailto:mcda@mariposacounty.org">mcda@mariposacounty.org</a>		District Attorney Yuba County 215 Fifth Street, Suite 152 Marysville, CA 95901 <a href="mailto:ccurry@co.yuba.ca.us">ccurry@co.yuba.ca.us</a>

I, Hunter Steinman, declare under penalty of perjury that the foregoing is true and correct.



November 27, 2020

Hunter Steinman  
1801 Chart Trail, Topanga, CA 90290