

LAW OFFICES OF GEORGE RIKOS

555 Beech Street, Suite 500 • San Diego, CA 92101 • TEL: (858) 342-9161 • FAX: (858) 724-1453

March 25, 2021

**AMENDED
SIXTY-DAY NOTICE OF INTENT TO SUE FOR VIOLATION OF THE SAFE DRINKING
WATER AND TOXIC ENFORCEMENT ACT OF 1986
(*Cal. Health & Safety Code § 25249.5, et see.*)
(*“Proposition 65”*)**

Attention Ari Hoffman, Esq.
Cohen and Wolfe, P.C.
Registered Agent for SCS Direct, Inc.
1115 Broad Street, Bridgeport, CT 06604

AMAZON.COM, INC.
c/o Corporation Service Company
251 Little Falls Drive
Wilmington, Delaware 19808

Attention Ari Hoffman, Esq.
Cohen and Wolf, P.C.
Registered Agent for Camerons Products, LLC
1115 Broad Street, Bridgeport, CT 06604

Attention Ari Hoffman, Esq.
Cohen and Wolf, P.C.
Registered Agent for SCS Direct, Inc.
1115 Broad Street, Bridgeport, CT 06604

Nepco
P.O. Box 98
115 Sweet Road
Warrensburg, New York 12885

AND THE PUBLIC PROSECUTORS LISTED ON THE DISTRIBUTION LIST ACCOMPANYING
THE ATTACHED CERTIFICATE OF SERVICE

Re: Violations of Proposition 65 concerning **Premium Smoking Chips containing Wood Dust**

Dear Registered Agent:

Brad Van Patten, the noticing entity, serves this Notice of Violation (“Notice”) upon SCS Direct, Inc., Amazon.com, Inc., Camerons Products, LLC, and Nepco (“Violator”) and pursuant to and in compliance with Proposition 65. Brad Van Patten’s contact information is: (858) 876-8309, 863 Del Mar Downs Road, Unit E, Solana Beach, CA 92075. However, Mr. Van Patten has retained counsel and as such, all communications must be conducted through his counsel, Law Offices of George Rikos, concerning this notice. Law Offices of George Rikos contact information is: 555 West Beech, Suite 500, San Diego, California 92101, Telephone no. (858) 342-9161, email: George@georgerikoslaw.com. This Notice satisfies a prerequisite for Mr. Van Patten to commence an action against Violator in any Superior Court of California to enforce Proposition 65. The violations addressed by this Notice occurred at numerous locations in each county in California as reflected in the district attorney addresses listed in the attached distribution list. Mr. Van Patten is serving this Notice upon each person or entity responsible for the alleged violations, the California Attorney General, the district attorney for each county where alleged violations occurred, and the City Attorney for each city with a population (according to the most recent decennial census) of over 750,000 located within counties where the alleged violations occurred.

- Brad Van Patten is a resident of the State of California. By sending this Notice, Mr. Van Patten is acting “in the public interest” pursuant to Proposition 65. Mr. Van Patten is a concerned citizen and resident of California and is dedicated to protecting the environment, improving human health, and supporting environmentally sound practices.
- This Notice concerns violations of the warning prong of Proposition 65, which states 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 ...” *Cal. Health & Safety Code* § 25249.6.
- **Smoking Chips** contains **Wood Dust**, which is known to the State of California to cause cancer. **Wood dust** was added to the Proposition 65 list in 2009. This violation has, on information and belief, been ongoing since May 6, 2019 to the present.
 - An *exemplar* of the violations caused by **Smoking Chips** includes but is not limited to: **Mesquite Smoking Chips and Bourbon Soaked Smoking Chips. These are only examples and this notice of violation is intended to include all wood chip based products.**

- This Notice addresses consumer products exposures. A “[c]onsumer products exposure’ is an exposure which results from a person’s acquisition, purchase, storage, consumption, or other reasonably foreseeable use of a consumer good, or any exposure that results from receiving a consumer service.” *Cal. Code Regs. 27 § 25602(b)*.

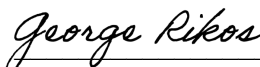
Violator caused consumer product exposures in violation of Proposition 65 by producing or making available for distribution or sale in California to consumers **Smoking Chips**. The packaging for **Smoking Chips** (meaning any label or other written, printed or graphic matter affixed to or accompanying the product or its container or wrapper) contains no Proposition 65-compliant warning. Nor did Violator, with regard to **Smoking Chips**, provide a system of signs, public advertising identifying the system and toll-free information services, or any other system, which provided clear and reasonable warnings. Nor did Violator, with regard to **Smoking Chips**, provide identification of the product at retail outlets in a manner that provided a warning through shelf labeling, signs, or a combination thereof.

The principal route of exposure is through inhalation, hand to mucous membrane contact and breathing in particulate matter. Handling the product causes the wood dust to become airborne and to be inhaled by the consumer. Exposure to wood dust can cause cancers of the nose, throat and sinuses.

Proposition 65 requires that notice of intent to sue be given to the violator(s) sixty (60) days before the suit is filed. *Cal. Health & Safety Code § 25249.7(d)(1)*. With this letter, Mr. Van Patten gives notice of the alleged violation to Violators and the appropriate governmental authorities. In absence of any action by the appropriate governmental authorities within sixty (60) calendar days of the sending of this notice (plus five (5) calendar days if the address is within the State of California or ten (10) calendar days if the address is within the United States but outside of the State of California), Mr. Van Patten may file suit. *See Cal. Health & Safety Code § 25249.7(d)(1); Cal. Code Regs. 27 § 25903(d)(1); and Cal. Code Civ. Proc. § 1013*. Mr. Van Patten remains open to discussing the possibility of resolving its grievances short of formal litigation.

With the copy of this notice submitted to the Violators, a copy of the following is attached: The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary.

Dated: March 25, 2021



George Rikos, Esq.
Attorney for Brad Van Patten

Premium Smoking Chips containing Wood Dust

CERTIFICATE OF MERIT

Health & Safety Code Section 25249.7(d)

I, George Rikos, hereby declares:

1. This Certificate of Merit accompanies the attached sixty-day notice(s) in which it is alleged the party(s) identified in the notice(s) has violated Health and Safety Code section 25249.6 by failing to provide clear and reasonable warnings.
2. I am the attorney for the noticing party.
3. I have consulted with at least one person with relevant and appropriate experience or expertise who has reviewed facts, studies, or other data regarding the exposure to the listed chemical that is subject of the action.
4. Based on the information obtained through those consultations, and on all 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 plaintiffs' 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 this 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 and Safety Code section 25249.7(h)(2), i.e., (1) the identity of the persons consulted with and relied on by the certified, and (2) the facts, studies, or other data reviewed by those persons.

Dated: May 6, 2020

By:

George Rikos
George Rikos

Appendix A

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT CALIFORNIA PROTECTION AGENCY THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACTION 1986 (PROPOSITION 65): A SUMMARY

The following summary has been prepared by the office of Environmental Health Hazard Assessment, the lead and Toxic Enforcement Act 1986 (commonly known as "Proposition 65") A copy of this summary must be included as an attachment to any notice of violation served upon an alleged violator of the Act. The summary provides basic information about the provisions of the law, and is intended to serve only as a convenient source of general information. It is not intended to provide law. The reader is directed to the statute and its implementing regulations (See citations below) for further information.

Proposition 65 appears in California law as Health and Safety Code Sections 25249.5 through 25249.13. Regulations that provide more specific guidance on compliance, and that specify procedures to be followed by the State in carrying out certain aspects of the law, are found in Title 27 of the California Code Regulations, Sections 250000 through 27000.

WHAT DOES PROPOSITION 65 REQUIRE?

The "Governor's List" Proposition 65 requires the Governor to publish a list of chemicals that are known to the State of California to cause cancer, or birth defects or other reproductive harm. This list must be updated at least once a year. Over 725 chemicals have been listed as of November 16, 2001. Only those chemicals that are on the list are regulated under this law. Businesses that produce, use, release, or otherwise engage in activities involving those chemicals must comply with the

following:

Clear and Reasonable Warnings. A business is required to warn a person before "knowingly and intentionally" exposing that person to a listed chemical. The warning given must be "clear and reasonable." This means that the warning must: (1) clearly make known that the chemical involved is known to cause cancer or birth defects or other reproductive harm; and (2) be given in such a way that it will effectively reach the person before he or she is exposed. Exposures are exempt from the warning requirement if they occur less than twelve months after the date of the listing of the chemical.

Prohibition from discharges into drinking water. A business must not knowingly discharge or release a listed chemical into water or onto land where it passes or probably will pass into a source of drinking water. Discharges are exempt from this requirement if they occur less than twenty months after the date of the listing of chemical.

DOES PROPOSITION 65 PROVIDE ANY EXEMPTIONS?

Yes. The law exempts:

Governmental agencies and public water utilities. All agencies of the federal, State or local government, as well as entities operating public water systems, are exempt.

Exposures that pose no significant risk of cancer. For chemicals that are listed as known to the State to cause cancer (“carcinogens”), a warning is not required if the business can demonstrate that the exposure occurs at a level that poses “no significant risk.” This means that the exposure is calculated to result in not more than one excess case of cancer in 100,000 individuals exposed over a 70- year lifetime. The Proposition 65 regulations identify specific “no significant risk” levels for more than 250 listed carcinogens.

Exposures that will produce no observable reproductive effect at 1,000 times the level in question. For chemicals known to the State to cause birth defects or other reproductive harm (“reproductive toxicants”), a warning is not required if the business can demonstrate that the exposure will produce no observable effect, even at 1,000 times the level in question. In other words, the level of exposure must be below the “no observable effect level (NOEL),” divided by a 1,000- fold safety or uncertainty factor. The “no observable effect level” is the highest dose level which has not been associated with an observable adverse reproductive or developmental effect.

Discharge that do not result in a “significant amount” of the listed chemical entering into any source of drinking water. The prohibition from discharges into drinking water does not apply if the discharger is able to demonstrate that a “significant amount” of the list chemical has not, does not, or will not enter any drinking water source, and that the discharge complies with all other applicable laws, regulations, permits, requirements, or orders. A “significant amount” means any

detectable amount; expect an amount that would meet the “ no significant risk” or “no observable effect” test if an individual were exposed to such an amount in drinking water.

HOW IS PROPOSITION 65 ENFORCED?

Enforcement is carried out through civil lawsuits. These lawsuits may be brought by the Attorney General, any district attorney, or certain city attorneys (those in cities with a population exceeding 750,000). Lawsuit may also be brought by private parties acting in the public interest, but only after providing notice of the alleged violation to the Attorney General, the appropriate district attorney and city attorney, and the business accused of the violation. The notice must provide adequate information to allow the recipient to assess the nature of the alleged violation. A notice must comply with the information and procedural requirements specified in regulations (Title 27. California Code of Regulations, Section 25903). A private party may not pursue an enforcement action directly under Proposition 65 if one of the governmental officials noted above initiates an action within sixty days of notice.

A business found to be in violation of Proposition 65 is subject to civil penalties of up to \$2,500 per day for each violation. In addition, the business may be ordered by a court of law to stop committing the violation.

FOR FURTHER INFORMATION...

Contact the Office of Environmental Health Hazard Assessment= Proposition 65 Implementation Office at (916)445-6900

CERTIFICATE OF SERVICE

Health & Safety Code Section 25249.7(d)

I am over the age of 18 and not a party to this case. I am a resident of employed in the county where the mailing occurred. My business address is 555 West Beech Street, Suite 500, San Diego, California 92101.

ON THE DATE SHOWN BELOW, I CAUSED TO BE SERVED THE FOLLOWING:

- 1) 60-Day Notice of Intent to Sue Under Health & Safety Code Section 25249.6
- 2) Certificate of Merit: Health and Safety Code Section 25249.7(d)
- 3) Certificate of Merit (Attorney General Copy): Factual information sufficient to establish the basis of the certificate of merit (*only sent to Attorney General*)
- 4) The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary by enclosing copies of the same in a sealed envelope, along with an unsigned copy of this declaration, addressed to each person shown below and depositing the envelope in the U.S. mail with the postage fully prepaid. Place of Mailing: San Diego, California

Name and address of each party to whom documents were mailed:

Attention Ari Hoffman, Esq.
Cohen and Wolfe, P.C.
Registered Agent for SCS Direct, Inc.
1115 Broad Street, Bridgeport, CT 06604

AMAZON.COM, INC.
c/o Corporation Service Company
251 Little Falls Drive
Wilmington, Delaware 19808

Attention Ari Hoffman, Esq.
Cohen and Wolf, P.C.
Registered Agent for Camerons Products, LLC
1115 Broad Street, Bridgeport, CT 06604

Attention Ari Hoffman, Esq.
Cohen and Wolf, P.C.
Registered Agent for SCS Direct, Inc.
1115 Broad Street, Bridgeport, CT 06604

Nepco
P.O. Box 98
115 Sweet Road
Warrensburg, New York 12885

Name and address of each public prosecutor to whom documents were mailed:

SEE ATTACHED SERVICE LIST

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

Date of Mailing: March 25, 2021 By: George Rikos
George Rikos

Distribution List

| | | |
|---|--|---|
| Alameda County District Attorney CEPDProp65@acgov.org | Los Angeles County District Attorney 210 W. Temple St., 18 th Floor Los Angeles, CA 90012 | Mono County District Attorney PO Box 617 Bridgeport CA, 93517 |
| Alpine County District Attorney PO Box 248 Markleeville, CA 96120 | Madera County District Attorney 209 W Yosemite Ave Madera, CA 93637 | San Joaquin County District Attorney DAConsumer.Environmental@sjcda.org |
| Amador County District Attorney 708 Court, Suite 202 Jackson, CA 95642 | Mariposa County District Attorney mcda@mariposacounty.org | San Francisco County District Attorney alethea.sargent@sfgov.org |
| Butte County District Attorney 25 County Center Dr. Oroville, CA 95965-3385 | Marin County District Attorney 3501 Civic Center Drive, #130 San Rafael, CA 94903 | San Diego City Attorney CityAttyCrimProp65@sandiego.gov |
| Calaveras County District Attorney Prop65Env@co.calaveras.ca.us | Mendocino County District Attorney P.O. Box 1000 Ukiah, CA 95482 | San Bernardino County District Attorney 316 N Mountain View Ave San Bernardino, CA 92415-0004 |
| Office of the Attorney General P.O. Box 70550 Oakland, CA 94612-0550 | Los Angeles City Attorney 200 N Main St Ste 1800 Los Angeles CA 90012 | San Francisco City Attorney Valerie.lopez@sfcityatt.org |
| Colusa County District Attorney Courthouse, 547 Market St. Colusa, CA 95932 | Inyo County District Attorney inyoda@inyocounty.us | Placer County District Attorney Prop65@placer.ca.gov |
| Contra Costa County District Attorney sgrassini@contracostada.org | Orange County District Attorney PO Box 808 Santa Ana, CA 92702 | Merced County District Attorney Prop65@countyofmerced.com |
| Del Norte County District Attorney 450 "H" St. Crescent City, CA 95531 | Nevada County District Attorney DA.Prop65@co.nevada.ca.us | Napa County District Attorney CEPD@countyofnapa.org |
| El Dorado County District Attorney 515 Main St. Placerville, CA 95667-5697 | Plumas County District Attorney Davidhollister@countyofplumas.com | Riverside County District Attorney Prop65@rivcoda.org |
| Fresno County District Attorney 2220 Tulare St., Ste 1000 Fresno, CA 93721 | Sacramento County District Attorney Prop65@sacda.org | San Benito County District Attorney 419 4 th St Hollister, CA 95023 |
| Glenn County District Attorney PO Box 430 Willows, CA 95988 | San Luis Obispo County District Attorney edobroth@co.slo.ca.us | Siskiyou County District Attorney PO Box 986 Yreka, CA 96097 |
| Humboldt County District Attorney 825 5 th St., 4 th Floor Eureka, CA 95501 | San Mateo County District Attorney 400 County Center Redwood City, CA 94063 | Solano County District Attorney 600 Union Ave Fairfield, CA 94533 |
| Imperial County District Attorney 939 W. Main St., 2 nd Floor El Centro, CA 92243-2860 | Santa Barbara County District Attorney DAProp65@co.santa-barbara.ca.us | Sonoma County District Attorney jbarnes@sonoma-county.org |
| Kern County District Attorney 1215 Truxtun Ave. Bakersfield, CA 93301 | Santa Clara County District Attorney EPU@da.sccgov.org | Shasta County District Attorney 1525 Court St., 3 rd Floor Redding, CA 96001-1632 |
| Kings County District Attorney Gov't Ctr., 1400 W. Lacey Blvd. Hanford, CA 93230 | Santa Cruz County District Attorney Prop65DA@santacruzcounty.us | Sierra County District Attorney PO Box 457 Downieville, CA 95936-0457 |
| Lake County District Attorney 255 N. Forbes St. Lakeport, CA 95453-4790 | Stanislaus County District Attorney PO Box 442 Modesto, CA 95353 | Trinity County District Attorney PO Box 310 Weaverville, CA 96093 |
| Modoc County District Attorney 204 S. Court Street Alturas, CA 96101-4020 | Sutter County District Attorney 446 Second Street Yuba City, CA 95991 | Yuba County District Attorney 215 5 th St Marysville, CA 95901 |
| San Diego District Attorney SanDiegoDAProp65@sdca.org | Lassen County District Attorney mlatimer@co.lassen.ca.us | Monterey County District Attorney Prop65DA@co.monterey.ca.us |
| Tuolumne County District Attorney 2 S. Green St Sonora, CA 95370 | Tulare County District Attorney Prop65@co.tulare.ca.us | Yolo County District Attorney cfejd@yolocounty.org |
| Ventura County District Attorney daspecialops@ventura.org | Tehama County District Attorney P.O. Box 519 Red Bluff, CA 96080 | San Jose City Attorney 151 W. Mission St. San Jose, CA 95110 |
| Electronically Uploaded to: Office of the Attorney General Proposition 65 Enforcement Reporting Attn: Prop 65 Coordinator https://oag.ca.gov/Prop65/add-60-day-notice | | |