

## COVID-19 STATEMENT

Please be advised that the citizen enforcer issuing the enclosed sixty-day notice is taking into consideration the backdrop of the coronavirus that has gripped much of the country and globe alike, while following the process set forth under California Health and Safety Code §25249.6 *et seq.* and its implementing regulations.

We have communicated with the California Attorney General's Office that if it needs a reasonable amount of additional time before deciding whether to exercise its primary jurisdiction under the statute, my client will stand down for a mutually agreeable period. That said, if the parties can reach an out-of-court agreement in furtherance of the public health after the requisite waiting period, and with the required information uploaded to the Department of Justice's website, my client will conclude such negotiations since it will not only provide a substantial benefit to the public, but also avoid the need to involve the judiciary during a time that its resources are stretched.

In sum, my client is neither oblivious nor insensitive to the impact of COVID-19 as it relates to people of all ages especially the most vulnerable. At the same time, our client is continuing on a reduced pace to investigate and, potentially enforce, the right-to-know toxics initiative passed in 1986 by California voters.

Please feel free to contact me directly with any questions regarding the underlying claims in the enclosed document. As always, my client will negotiate financial terms (e.g., civil fines) in good faith after the non-monetary terms such as reformulation have been agreed upon between the parties.



# SUPPLEMENTAL SIXTY-DAY NOTICE OF VIOLATION

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SENT IN COMPLIANCE WITH CALIFORNIA HEALTH & SAFETY CODE §25249.7(d)

**DATE:** March 11, 2021

**TO:** C. Douglas McMillon, CEO – Walmart Inc.  
California Attorney General's Office;  
District Attorneys and Certain City Attorneys Throughout California

**FROM:** Laurence Vinocur

This letter supplements the notice issued on February 2, 2021, related to lead-based solder wire (AG number 2021-00274) (hereinafter, supplemental notice). My name is Laurence Vinocur. I am a citizen of the State of California acting in furtherance of the public interest. I seek to promote awareness of exposures to certain toxic chemicals in products sold in California and, if possible, to improve human health by reducing hazardous substances contained in such items. This supplemental notice is provided to the public agencies listed above pursuant to California Health & Safety Code §25249.6 *et seq.* (Proposition 65). As noted above, this letter is also being provided to the alleged violator, Walmart Inc. which is a person in the course of doing business in California (Violator). The violations covered by this supplemental notice consist of the product exposure, routes of exposure and types of harm potentially resulting from exposure to the hazardous substance identified below (listed chemical), as follows:

Products:	Lead-Based Solder Wire <sup>1</sup>
Listed Chemical:	Lead
Routes of Exposure:	Inhalation, Ingestion and Dermal
Types of Harm:	Birth Defects and Other Reproductive Harm

## **I. NATURE OF ALLEGED VIOLATION (PRODUCT EXPOSURE)**

Lead-based solder wire that are causing consumer exposures and potentially occupational exposures, in violation of Proposition 65, and that are covered by this letter shall be referred to hereinafter as the “Products.” Exposures to the listed chemical from the use of the Products have been occurring without the “clear and reasonable warning” required by Proposition 65, dating as far back as March 11, 2018. Without proper warnings regarding the toxic effects of exposures to the listed chemical resulting from the use of the Products, California citizens lack the information necessary to make informed decisions on whether and how to eliminate (or reduce) the risk of exposure to the identified toxicant.

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<sup>1</sup> The specific products covered by this letter are limited to those items which reference the toxicant “lead” in: (i) the product’s name; (ii) the product description or information referenced prominently near the online display for the item when offered for sale on the internet; (iii) the search “filter,” if any, used to market the products online; (iv) the product packaging or container; or (v) in any other conspicuous manner likely to be read by the online purchaser before payment without considerable effort to be undertaken.

California citizens, through the act of buying, acquiring, receiving or utilizing the Products, are exposed to the listed chemical. By way of example, consumers, workers and other individuals, including women of childbearing age, ingest the listed chemical when they, among other activities, touch the Products and transfer the listed chemical from the Products to their mouths through hand-to-mouth activities that may continue to occur for a significant period after one or more contacts with the Products ceases.

Additionally, consumers, workers and other individuals, including women of childbearing age, are exposed to the listed chemical through direct dermal contact when they, among other activities, handle, touch or otherwise use the Products. Further, there are reasonably foreseeable uses of the Products that result in direct ingestion and inhalation.

The California State Plan for Occupational Safety and Health incorporates the provisions of Proposition 65, as approved by Federal OSHA on June 6, 1997. This approval specifically placed certain conditions with regard to occupational exposures on Proposition 65, including that it does not apply to the conduct of manufacturers occurring outside the State of California so long as they are based in the United States. The approval also provides that a United States employer may use the means of compliance in the general hazard communication requirements to comply with Proposition 65. It also requires that supplemental enforcement be subject to the supervision of the California Occupational Safety and Health Administration.

Any settlement, civil complaint or substantive court orders in this matter must be submitted to the state Attorney General. It is important to note that the sale of the Products through online means of transaction must provide the customer with a clear and reasonable warning for the risk of reproductive toxicity pursuant to Proposition 65 and its implementing regulations, even if the Violator's role is limited that of a retail seller.

## **II. CONTACT INFORMATION**

Please direct all questions concerning this supplemental notice to me through my counsel's office at the following address, email and/or telephone number:

Laurence Vinocur  
c/o Clifford A. Chanler  
Chanler, LLC  
72 Huckleberry Hill Road  
New Canaan, CT 06840-3801  
clifford@chanlerllc.com  
Telephone: (203) 594-9246

### **III. PROPOSITION 65 INFORMATION**

For general information concerning the provisions of Proposition 65, please feel free to contact the Office of Environmental Health Hazard Assessment's (OEHHA) Proposition 65 Implementation Office at (916) 445-6900. For the Violator's reference, I have attached a copy of "The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary" which has been prepared by OEHHA.

### **IV. POTENTIAL RESOLUTION OF NOTICED CLAIMS**

Based on the assertions set forth in this notice, I intend to file a citizen enforcement action (or amend any existing one that may be filed before the expiration of this sixty-day letter) against the Violator unless such alleged person in the course of doing business enters into a binding written agreement (and/or upstream party enters into an agreement which would resolve the relevant branded products shipped to the Violator) to: (a) recall Products already sold or undertake best efforts to ensure that the requisite health hazard warnings are provided to those who have received such Products; (b) provide "clear and reasonable warnings" for Products sold in the future or, preferably, reformulate such Products to eliminate potential exposures to lead (or undertake best efforts to ensure upstream entities in the chain of commerce such as manufacturers or exporters do so); and (c) pay an appropriate civil fine, if any, based on the factors enumerated in California Health & Safety Code §25249.7(b). If the alleged Violator is particularly interested in resolving this dispute without resorting to litigation, please feel free to contact my counsel identified in Section II above. It should be noted that neither my counsel nor I can finalize any settlement until after the statutory sixty-day notice period has expired for any additional covered products, unless there are voluntary compliance commitments made by the Violator; nor speak for the state Attorney General, any state district attorney or the five city attorneys who received this notice.

## V. ADDITIONAL NOTICE INFORMATION

Examples of Products that were recently purchased or observed as being available for purchase or use in California that are covered by this supplemental notice are photographed and identified on Exhibits A and B attached hereto. Based on publicly available information and belief, the vendor, supplier, seller, exporter or other person in the course of doing business, if any, are also provided on Exhibit A. I allege that the sale of the offending Products has also occurred without the requisite Proposition 65 “clear and reasonable warning” including, but not limited to, transactions made through the internet or over-the-counter.<sup>2 3</sup>

The examples are for the recipient’s benefit to assist in its investigation of, among other things, the magnitude of potential exposures to the listed chemical from other items within the definition of Products. These examples are not meant to be an exhaustive or comprehensive identification of each specific offending Product. Further, it is this citizen’s position that the alleged Violator is obligated to continue to conduct in good faith an investigation into other lead-based solder wire described above that may have been manufactured, imported, distributed, facilitated for sale, sold, shipped, stored, or was otherwise within the notice recipient’s custody or control during the relevant period so as to ensure that the requisite toxic warnings were and continue to be provided to California citizens prior to purchase, especially if the upstream vendor (i.e., party with whom the Violator entered into a contract to sell the products are issue) is exempt from a duty to warn or enforcement under Proposition 65.

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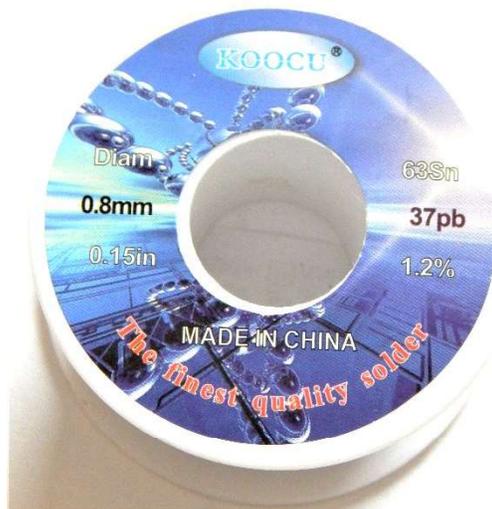
<sup>2</sup> If the manufacturer or supplier of one or more of the specific Products does not have a known agent for process of service in California or employs less than ten employees as defined by the operative regulation, then the online, brick and mortar or other retail seller is alleged to have heightened regulatory responsibilities beyond 27 CCR §25600.2(d) especially if the Violator is also an importer or fulfills additional upstream roles in the commercial marketplace.

<sup>3</sup> In accordance with 27 CCR §25600.2(g), please “promptly” answer the questions on **Exhibit C**, and return with receipt confirmation to Laurence Vinocur c/o Clifford Chanler, Chanler, LLC, 72 Huckleberry Hill Road, New Canaan, CT 06840, or via email to clifford@chanlerllc.com on or before **March 18, 2021**.

## Exhibit A

<b><i>Products</i></b>	<b><i>SKU/Model#/Item#</i></b>	<b><i>Vendor/Supplier/Seller/Manufacturer</i></b>
Kaina 0.8mm 100g 60/40 Rosin Core Tin Lead Roll Soldering Solder Wire, as Illustrated in Exhibit B	60/40; KZ1747-8; ZG45A3403	Joybuy Express; Walmart, Inc, (www.walmart.com)
Outeck hanwuyou 60-40 Tin Lead Rosin Core Solder Wire for Electrical Soldering 1.2mm 100g, as Illustrated in Exhibit B	ALKJ-1585; XYO90430005E; A00X99-83-02; 201007121215014013	Joybuy; Walmart, Inc, (www.walmart.com)
Egmy hanwuyou 60-40 Tin Lead Rosin Core Solder Wire 0.8mm 55g, as Illustrated in Exhibit B	8202; XYO90423007B; A03B36-048-03; 201107155534966002	Joybuy; Walmart, Inc, (www.walmart.com)
SNHENODA KOOCU 0.8mm 63/37 Rosin Roll Core Solder Wire Tin/Lead Flux Solder Welding Iron Reel (various wire diameter), as Illustrated in Exhibit B	KZ456-8; ZC21B7201	Joybuy; Walmart, Inc, (www.walmart.com)
JINHU 1.0mm 63/37 Clean Rosin Core Welding Tin Lead Solder Iron Wire Reel, as Illustrated in Exhibit B	A; PB0181A10; ZG15A9301	Joybuy; Walmart, Inc, (www.walmart.com)
Sanwood Solder Wire 100g 1.0mm 63/37 Rosin Core Welding Solder Tin Lead Wire Reel, as Illustrated in Exhibit B	14013060; 200914; 1946548	Joybuy Express; Walmart, Inc, (www.walmart.com)
WD XeredEx 0.6mm 50g Flux 2.0% Tin Tin Wire Soldering Wire Roll 63/37	C6564-1	Joybuy; Walmart, Inc, (www.walmart.com)
Greyghost:9418 Welding Wire 50g Solder Tool 63/27 Flux 2% Tin for Soldering Lead-free Wires (various wire diameter)	No identification number provided	Joybuy Express; Walmart, Inc, (www.walmart.com)
Wisremt JINHU Solder Wire High Purity No-clean Volume Low Temperature Rosin Core Soldering Supplies Welding Wires 63/37 50g	No identification number provided	Joybuy; Walmart, Inc, (www.walmart.com)

# Exhibit B



## **Exhibit C**

As it relates to *each* of the Products, including those identified on **Exhibit A**, provide the full legal entity name and any known contact information (on or before March 18, 2021) for:

- (a) Any and all manufacturers
- (b) Any and all producers
- (c) Any and all packagers
- (d) Any and all direct vendors
- (e) Any and all exporters
- (f) Any and all shippers, and
- (g) Any and all sellers

Please email the above-requested information to the address provided in Section II. Thank you.

# PROOF OF SERVICE

I, the undersigned, declare under penalty of perjury:

I am over the age of 18 years and not a party to the within action. I am a resident or employed in the county where the mailing occurred. My business address is 72 Huckleberry Hill Road, New Canaan, CT 06840.

On March 11, 2021, I caused to be served the following documents:

**SUPPLEMENTAL SIXTY-DAY NOTICE OF VIOLATION SENT IN COMPLIANCE WITH HEALTH & SAFETY CODE § 25249.7(d);**

**CERTIFICATE OF MERIT; AND**

**THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY**

XXXX **By First Class Certified Mail** through the United States Postal Service by placing true and correct copies of the above documents in a sealed envelope, addressed to each alleged violator listed below and providing such envelope to a United States Postal Service Representative.

C. Douglas McMillon, CEO  
Walmart Inc.  
702 SW 8<sup>th</sup> Street  
Bentonville, AR 72716

On March 11, 2021, I caused to be served the following documents:

**SUPPLEMENTAL SIXTY-DAY NOTICE OF VIOLATION SENT IN COMPLIANCE WITH HEALTH & SAFETY CODE § 25249.7(d); AND**

**CERTIFICATE OF MERIT**

XXXX **By Electronic Mail** by sending true and correct copies of the above documents to the electronic notification (Email) address(es) on the attached "Email Service List."

On March 11, 2021, I caused to be served the following documents:

**SUPPLEMENTAL SIXTY-DAY NOTICE OF VIOLATION SENT IN COMPLIANCE WITH HEALTH & SAFETY CODE § 25249.7(d);**

**CERTIFICATE OF MERIT; AND**

**CERTIFICATE OF MERIT ATTACHMENTS**

XXXX **By Electronic Upload** by causing true and correct copies of the above documents to be uploaded to the California Attorney General's website at the web address on the attached "Electronic Upload Service List."

Executed on March 11, 2021, in New Canaan, Connecticut.



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Lorent Guimaraes

# CERTIFICATE OF MERIT

California Health & Safety Code Section 25249.7(d)

I, Clifford A. Chanler, hereby declare:

1. This Certificate of Merit accompanies the attached supplemental sixty-day notice in which it is alleged that the party identified in the notice has violated Health and Safety Code §25249.6 by failing to provide clear and reasonable warnings;
2. I am the attorney for the noticing party;
3. 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 *alleged* exposure to the listed chemical that is the subject of this action and/or the listed chemical in substantially similar products and exposes individuals through the same potential routes;
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 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 this Certificate of Merit served on the Attorney General attaches to it factual information sufficient to establish the basis for this certificate under Health and Safety Code §25249.7(h)(2) including (i) the identity of the persons consulted with and relied on by the certifier, and (ii) certain facts, studies, or other data reviewed by those persons.

Dated: March 11, 2021



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Clifford A. Chanler

# EMAIL SERVICE LIST

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# **ELECTRONIC UPLOAD SERVICE LIST**

Office of the California Attorney General  
Proposition 65 Enforcement Reporting  
ATTN: Prop 65 Coordinator  
P.O. Box 70550  
Oakland, CA 94612-0550  
<https://oag.ca.gov/prop65/add-60-day-notice>