

# SECOND SUPPLEMENTAL SIXTY-DAY NOTICE OF VIOLATION

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

**DATE:** April 29, 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 notices issued on February 5, 2021, and March 11, 2021, related to lead-based solder wire (AG numbers 2021-00274 and 2021-00610) (hereinafter, second 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 second 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 second 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 (CONSUMER PRODUCT EXPOSURE)**

Lead-based solder wire that are causing consumer 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 April 29, 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 an online retail seller.

## **II. CONTACT INFORMATION**

Please direct all questions concerning this second 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 such as a supplier enters into an agreement which would resolve the relevant specific 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 to be sold in the future or, preferably, reformulate such Products to eliminate potential exposures to lead (or undertake best efforts to ensure upstream selling entities in the chain of commerce such as manufacturers, importers 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 with the violator until after the statutory sixty-day notice period has expired for the covered products; 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 second supplemental notice are photographed and identified on Exhibits A and B attached hereto. Based on publicly available information and belief, any other vendor, supplier, seller, exporter, importer 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 on the attachments 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 an applicable manufacturer, supplier, seller, exporter and/or importer of one or more of the Products does not have a known agent for process of service in California or employs less than ten people 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](mailto:clifford@chanlerllc.com) on or before **May 12, 2021**.

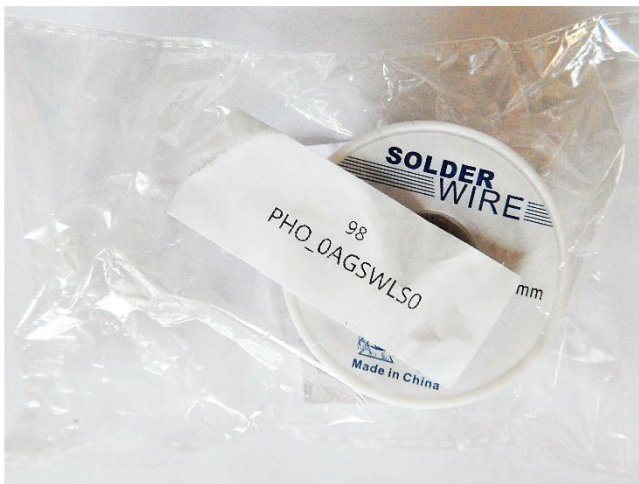
## Exhibit A

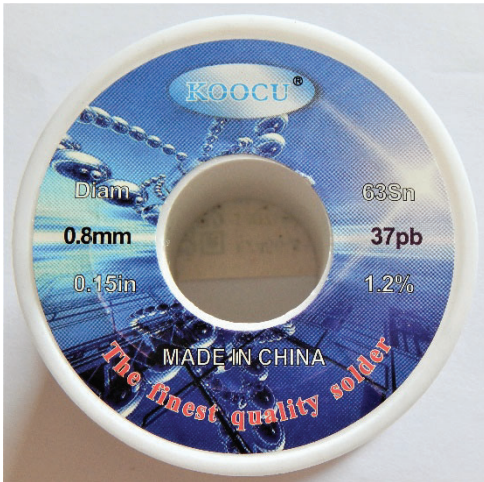
<b><i>Products</i></b>	<b><i>SKU/Model#/Item#</i></b>	<b><i>Vendor/Supplier/Seller/Manufacturer</i></b>
TSV Soldering Wire 1mm, Tin Lead Core Solder Wire, Tin 60%-Pb 40%, flux 1.8%, <i>As illustrated in <b>Exhibit B</b></i>	1974; H9796(k)	WOWParts
Kewei 0.8mm Rosin Core Flux Tin Lead Roll Soldering Solder Wire Spool <i>As illustrated in <b>Exhibit B</b></i>	No identification number provided	HiBotBoard
Unique Bargains Roll of DMiotech 1mm Diameter 63/37 Rosin Core Flux 1.8% Tin Lead SolderWire,, <i>As illustrated in <b>Exhibit B</b></i>	a15081200ux0149	Tasharina Corp.
Activity 60/40 Tin Lead Roll 2.0% Flux Soldering Wire Reel 1.0mm, <i>As illustrated in <b>Exhibit B</b></i>	No identification number provided	Lab Work Auto Parts
50g 0.8mm 63/37 Tin Lead Solder Wire Rosin Core Soldering Style, <i>As illustrated in <b>Exhibit B</b></i>	PHO_0AGSWLS0	All Clearance
Areyoushop Kaina 1.0mm 63/37 50g Rosin Core Solder Tin Llead Flux Soldering Welding Iron Wire, <i>As illustrated in <b>Exhibit B</b></i>	I008-A004; A11-2-3	Bruce Shark LLC
SUPERHOMUSE Koocu 0.8mm 63/37 Tin Lead Rosin Core Solder Wire Flux Reel Welding line Welding Parts, <i>As illustrated in <b>Exhibit B</b></i>	KZ456-8; 1307190.STPIU;	SUPERHOMUSE
Topzone 1.0mm Solder Core Wire, 11-TT250, <i>As illustrated in <b>Exhibit B</b></i>	11-TT250; UPC 8 39409 00007 2	Wideksall
Unique Bargains 0.6mm 400G 60/40 Rosin Core Tin Lead Roll Soldering Solder Wire Silver Tone, <i>As illustrated in <b>Exhibit B</b></i>	a15081200ux0162	Tasharina Corp.
MaRainbow Tin lead Rosin Core Solder Wire 0.3mm 0.4mm 0.5mm 0.6mm 0.8mm 1.0mm Flux Reel Welding line	No identification number provided	Kingmax Micro Technology Inc
Wonderful Tin Lead Rosin Core Solder 0.8Mm/0.6Mm/1.0Mm 100G/50G Flux Reel Welding Line Lead Tin Wire	No identification number provided	Wonderful Product Ltd.

<b><i>Products</i></b>	<b><i>SKU/Model#/Item#</i></b>	<b><i>Vendor/Supplier/Seller/Manufacturer</i></b>
Mad Hornets 0.8mm 63/37 50g Rosin Core Solder Tin Lead Flux Soldering Welding Iron Wire S	No identification number provided	Mad Hornets
Hovsco 0.6mm/0.8mm/1.0mm/1.2mm Rosin Roll Core Solder Wire Tin/Lead Flux Solder Welding Iron Reel	No identification number provided	SUNUOPOWER
Chinatera Tin Lead Rosin Core Solder Wire Soldering Iron Flux Reel Tin Wire (0.5mm)	No identification number provided	Power Round Sports
Jufeng 63/37 Tin Lead Rosin Core Flux 0.5mm Diameter Soldering Solder Wire 100g 65ft	No identification number provided	Everest Ventures
SweetCandy Welding Wire 50g 0.5 / 0.6 / 0.8 / 1 / 1.2 / 1.5 Mm Solder Tool 63/37 Flux 2.0% Tin For Soldering Lead-free Wires	No identification number provided	Cotton Candy Shop Apparel Inc.
EleaEleanor Welding Wire 50g 0.5 / 0.6 / 0.8 / 1 / 1.2 / 1.5 Mm Solder Tool 63/37 Flux 2.0% Tin For Soldering Lead-free Wires	No identification number provided	Nextgen Living Space
DTS Set of 10 Solder 1Lb. Wire spool 40 TIN 60 LEAD ROSIN CORE 0.062 inch - EQ66M	EQ66M	AMF Industrial LLC
Winnereco Winnereco Tin Lead Rosin Core Solder Wire Soldering Iron Flux Reel Tin Wire (0.5mm)	2hg8zc3ks2ta0nt0D01-yzy	The Woven Landen
OPKALL Lead Tin Wire 0.8 Environmental Protection Solder Wire Rosin Core Has Lead Wire Durable Lead Tin Wire	No identification number provided	Wonderful Product Ltd.
J.W. Harris Wire Solders, Spool, Resin Core, 1/16 in, 60% Tin, 40% Lead	60R31	DropAir



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 May 12, 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 April 29, 2021, I caused to be served the following documents:

**SECOND 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 April 29, 2021, I caused to be served the following documents:

**SECOND 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 April 29, 2021, I caused to be served the following documents:

**SECOND 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 April 29, 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 second 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: April 29, 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>