

## **AMENDED THIRD SUPPLEMENTAL SIXTY-DAY NOTICE OF VIOLATION**

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

**DATE:** December 8, 2023

**TO:** Andy Jassy, CEO – Amazon.com, Inc.  
California Attorney General’s Office  
District Attorneys and Certain City Attorneys Throughout California

**FROM:** Paul Wozniak

My name is Paul Wozniak. I am a citizen of the State of California acting in furtherance of the public interest. I seek to promote awareness of exposure 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 notice amends the Third Supplemental Sixty-Day Notice of Violation sent on November 7, 2023, which supplements the Sixty-Day Notices of Violation sent on June 1, 2022 (2022-01123, 2022-01124, 2022-01125, and 2022-01126), on October 19, 2022 (2022-02531 and 2022-02532), on September 8, 2023 (2023-02760) and on October 6, 2023 (2023-03064), and 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, Amazon.com, Inc., which is a person in the course of doing business in California (Violator). The violations covered by this notice consist of the product exposure, routes of exposure and types of harm potentially resulting from exposure to the hazardous substance identified below (listed chemicals), as follows:

**Product Categories:** Padded armrests and other vinyl upholstered components used for wheelchairs;  
Grips and other vinyl upholstered components used for wheelchairs;  
Wheelchairs with padded armrests and/or other accessible vinyl components;  
Rollators with accessible vinyl upholstered components

**Listed Chemicals:** Diisononyl phthalate (“DINP”)  
Di(2-ethylhexyl)phthalate (“DEHP”)  
Lead

**Routes of Exposure:** Ingestion and Dermal

**Types of Harm:** Cancer as to DINP; and Cancer and Birth Defects and Other Reproductive Harm as to DEHP and Lead

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

The specific types of products 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 chemicals from the use of the Products have been occurring without the “clear and reasonable warning” required by Proposition 65, dating as far back as December 8, 2019. Without proper warnings regarding the toxic effects of exposures to the listed chemicals 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 listed chemicals from the reasonably foreseeable use of the Products.

California citizens, through the act of buying, acquiring, receiving or utilizing the Products, are exposed to the listed chemicals. By way of example, consumers, and other individuals, including women of childbearing age, ingest the listed chemicals when they, among other activities, touch the Products and transfer the listed chemicals 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 and other individuals, including women of childbearing age, are exposed to the listed chemicals 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.

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.<sup>1</sup>

## **II. CONTACT INFORMATION**

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

Paul Wozniak  
c/o Clifford A. Chanler  
Chanler, LLC  
72 Huckleberry Hill Road  
New Canaan, CT 06840-3801  
clifford@chanlerllc.com  
Telephone: (475) 277-2932

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<sup>1</sup> The claims excluded in this notice includes those releases covered in recent resolutions with Karman Healthcare, Inc., Alco Sales & Service Co. and Compass Health Brands Corp. provided that alleged violative sales were sent to California addresses on or before the "compliance date" in their respective settlement agreements.

### **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 was 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 one or more of the products at issue shipped to the Violator) to: (a) recall Products already sold; (b) provide "clear and reasonable warnings" for Products to be sold in the future or, preferably, reformulate such Products to eliminate the lead, DEHP and DINP exposures (or undertake best efforts to ensure upstream selling entities in the chain of commerce such as manufacturers, exporters, importers or distributors 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 and witnessed as being available for purchase or use in California that are within the product categories covered by this notice are identified on Exhibit A. (An asterisk is placed on the Product Column to illustrate that the items on Exhibit A are only exemplars of the Product at issue; a double asterisk indicates that Amazon identified itself as the “seller” of the Product in addition to its role as distributor, drop shipper and/or retailer.) 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.<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 chemicals 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 specific Products within the type or category 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 at 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 and/or employs less than ten people as defined by the operative regulation, then Amazon is alleged to have heightened regulatory responsibilities beyond 27 CCR §25600.2(d) especially if it is also an importer and/or fulfills additional roles in the commercial marketplace such as being a “drop shipper” of the Product.

<sup>3</sup> In accordance with 27 CCR §25600.2(g), please “promptly” answer the questions on **Exhibit B**, and return with receipt confirmation to Paul Wozniak c/o Clifford Chanler, Chanler, LLC, 72 Huckleberry Hill Road, New Canaan, CT 06840, or via email to clifford@chanlerllc.com on or before **December 24, 2023**.

## Exhibit A

<i>Exemplar of Products</i>	<i>ASIN</i>
AlveyTech 10” Desk Length Padded Vinyl Armrests for Wheelchairs (Pair), #E41-9802	B07V2JX8JZ
Universal Desk Length Wheelchair Arm Pad, UPC #847102015286 (Sold by Amazon.com Services LLC)	B00NY2YYOY*
Healthline Padded Armrest for Wheelchairs Vinyl Pair, Universal Arm Pads Replacement 10” Desk Arm, Black	B008ARRRD8
Universal Black Desk Length Vinyl Padded Armrest - Pair, #TAGAC015658, ITEM# YY-0UC4-RK4B	B014V1KYPE
RANT WHEEL, Desk Length 10 inch, Wheelchair Armrest Pad (Vinyl), EVA Stuff, Black (Pair), #LA-25	B07DQNZMW4
New Solutions AR053P 15x2x4 in. Full Length Padded Armrests Universal Fit for Wheelchair Dark Blue Vinyl, Set of 2	B01M1UQV0S
Wheelchair Armrest Pads, Black Vinyl Full Length Armrest 14", One Pair, #AR051P, UPC#8 10969 01042 8	B0728B3R48
Universal Wheelchair Calf Pad w/ Hardware, Wheelchair Elevating Leg Rest Black Calf Pad, Upholstered, Heavy Duty Wheelchair Parts Calf Pad, Vinyl Calf Pad	B0BN4DNCSB
Wheelchair Legrest Black Calf Pad - Proactive Protekt Universal Calf Pad w/Hardware, PP-RCP	B0711YNQ7R
Calf Pad for Wheelchair - Proactive Protekt Universal Calf Pad w/Hardware, PP-RCP	B0BCH37KK8
Wheelchair Brakes Handle Cover for 0.67" Flat Wheel Lock Grips Replacement, Set of 2 (Black-1)	B09W23RMSH
Wheelchair Seat Upholstery Vinyl, Black	B079G6LNBK B079G6ZNF7 B079G4RJZD B079G4SGJH B079G6HS5B

Wheelchair Brakes, Aluminum Side Mount Wheel Lock Sensitive Wheelchair Hand Brake Assembly, High Sensitivity Wheelchair Wheellock Assembly Replacement for Electric Wheelchairs Easy to Install (Right)	B09NP63RT4
Encarefor Wheelchair Brake Handle Extensions - Pair (8.2 inch)	B09P7ZJQCQ
Drive Medical TR37E-SV Steel Transport Chair 17" Silver Vein Frame, UPC 8 22383 13283 9 (Sold by Amazon.com Services LLC)	B0C33BFF3Q*
Dynarex DynaGo Advantage Rollator with 6" Casters	B084CQ1BVP B084ZQ1BVQ
Vinyl Wheelchair Seat Replacement - Upholstery Wheelchair Seats Replacements For 16" Chair - Comfortable And Supportive Padded Seat For Wheelchair - K2	B0BCH8YF22 B0BCH5XRYP B0BCH7VYPN
Universal SEAT Vinyl Upholstery - Black Color - for Wheelchairs. Choose Size	B0CBL1R3XD B0CBKZP8GG B0CBL23429 B0CBL11XT8 B0CBKYZFF5 B0CBKXYQKZ
Elite Care Lightweight Aluminum Folding Transport Travel Wheelchair with Handbrakes - Weighs Only 24lbs ECTR01	B00B285TF0
Standard wheelchairs and Transport Chairs Universal Wheelchair Handle Grips, Replace Parts, fits Blue Streak, Silver Sport 1and2, Cruiser III,Other Wheelchairs, Mounting Holes 7/8 Inch(1Pair,Black)	B0BMXR2ZJN
Dynarex Bari+Max Bariatric Reclining Wheelchair with Elevating Leg Rest, Extended Headrest, Foldable Frame - 24" Seat, 500 Pounds Weight Capacity, Black (Sold by Amazon.com)	B0BYRLMX91*
Goplus 2 in 1 Rollator Walker for Seniors, Medical Walker with Seat, Folding Transport Wheelchair Rollator with 8" Wheels, Reversible Backrest, Footrests, Aluminum Mobility Walking Aid	B0B9YKNWWR B0BTVJ6CWB

<p>Dynarex DynaGo Duo Transport 4 Wheel Rollator is a Stand-Up Rolling Walker and a Seated Transport Wheelchair, with Fold-Down Footrests and a Weight Capacity of 300 pounds, Red Frame, 1 Rollator</p>	<p>B09HW1Q39B</p>
<p>2Pcs Wheelchair Brakes Steel Side Mount Assembly Manual Sensitive Wheelchair Locks Brakes Wheelchair Accessories Steel Material Portable</p>	<p>B0BLYLP74K**</p>

\* The specifically identified examples of ASIN were directly sold and shipped by Amazon.com, Inc.

\*\* This specifically identified exemplar of ASIN is an additional Product not previously listed in the prior notices identified in the first paragraph of page 1 above. Such exemplar replaces ASINs YZRYXHWL, B07WR8Y6F4 and B07WNH3P6X (“Replaced ASINs”) which were included due to clerical error. Accordingly, the three Replaced ASINs are no longer part of AGO Notice Nos: 2022-01123, 2022-01124, 2022-01125, 2022-01126, 2022-02531, 2022-02532, 2023-02760, and 2023-03064.

# Exhibit B

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 **December 24, 2023**) 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 (or send via overnight delivery) 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 **December 8, 2023**, I caused to be served the following documents:

***AMENDED THIRD 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.

Andy Jassy, CEO  
Amazon.com, Inc.  
410 Terry Avenue N  
Seattle, WA 98109

On **December 8, 2023**, I caused to be served the following documents:

***AMENDED THIRD 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 **December 8, 2023**, I caused to be served the following documents:

***AMENDED THIRD 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 **December 8, 2023**, 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 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 chemicals that are the subject of this action and/or the listed chemicals 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: December 8, 2023

  
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>