

**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 seq.)

December 22, 2023

Current President/CEO
Wal-Mart Stores, Inc.
702 SW 8th Street
Bentonville, AR

Doug C McMillon, CEO
Walmart, Inc.
702 SW 8th Street
Bentonville AR 72716

Walmart, Inc.
Agent for Service of Process
1505 Corp
CT Corporation System
330 N Brand Blvd.
Glendale, CA8

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

Re: Violations of Proposition 65 Concerning **Seafood Products** Containing **Cadmium and Cadmium Compounds** (“**Cadmium**”)

To whom else this may concern:

Consumer Advocacy Group, Inc. (“CAG”), the noticing entity, located at 9190 W. Olympic Blvd, Suite 426, Beverly Hills, California 90212, serves this Notice of Violation (“Notice”) on the **Above Listed Entities** (“Violators”), pursuant to and in compliance with The Safe Drinking Water and Toxic Enforcement Act of 1986 (“Proposition 65”). Violators may contact CAG concerning this Notice through its designated person, its attorney, Reuben Yeroushalmi, 9100 Wilshire Boulevard, Suite 240W, Beverly Hills, CA 90212, telephone no. (310) 623-1926, facsimile no. (310) 623-1930. This Notice satisfies a prerequisite for CAG to commence an action against Violators 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. CAG 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.

CAG is an organization based in California. CAG is an entity dedicated to protecting the consumer environment, improving human health, and supporting environmentally sound commercial practices. By sending this Notice, CAG is acting “in the public interest” pursuant to Proposition 65.

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.

CAG has discovered **Seafood Products**, specifically **Sardines in Water, Sardines in Oil, and Sardines in Louisiana Hot Sauce** (“**Sardines**”) containing **Cadmium**. On October 1, 1987, the Governor of California added Cadmium to the list of chemicals known to the State to cause cancer and on May 1, 1997, the Governor added Cadmium to the list of chemicals known to the State to cause developmental toxicity and male

reproductive toxicity. The above additions took place more than twenty (20) months before CAG served this Notice.

An exemplar of the violations caused by **Sardines** containing **Cadmium** *includes but is not limited to:*

- “Great Value”; “Sardines in Water”; “WILD CAUGHT”; “NET WT 3.75 OZ (106g)”; “UD4EOTBNN 1XSCE”; “BEST If Used By MAR 14 2026”; “UPC 078742237855”
- “Great Value”; “Sardines in Oil”; “WILD CAUGHT”; “NET WT 3.75 OZ (106g)”; “UD4EOTOKW 1XSGD”; “BEST If Used By JUL 13 2026”; “UPC 078742236995”
- “Great Value”; “Sardines in Louisiana Hot Sauce”; “WILD CAUGHT”; “NET WT 3.75 OZ (106g)”; “UD4EOTSUW 1XSCR”; “BEST If Used By MAR 25 2026”; “UPC 078742237862”

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 tit. § 25600.1(e).

Violators caused consumer product exposures in violation of Proposition 65 by producing or making available **Sardines** for distribution or sale to consumers. The packaging for **Sardines** (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 Violators, with regard to **Sardines**, 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 Violators, with regard to **Sardines**, provide identification of the product at retail outlets in a manner that provided a compliant warning through shelf labeling, signs, menus, or a combination thereof.

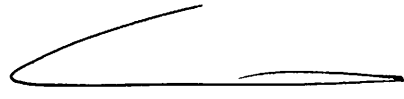
These violations occurred each day between December 22, 2020, and December 22, 2023, and are ever continuing thereafter.

The principal routes of exposure were through ingestion, dermal contact, and inhalation. Persons sustain exposures by eating, mixing, or handling the **Sardines** without wearing gloves or by touching bare skin or mucous membranes with or without gloves after handling **Sardines**, as well as direct and indirect hand to mouth contact, hand to mucous membrane, trans-dermal absorption, or breathing in particulate matter emanating from the **Sardines** during use, as well as through environmental mediums that carry the **Cadmium** once contained within the **Sardines**.

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, CAG gives notice of the alleged violations 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, CAG may file suit. *See* CAL. CIV. PROC. CODE § 1013; CAL. HEALTH & SAFETY CODE § 25249.7(d)(1); and CAL. CODE REGS. tit. 27 § 25903(d)(1). Per Cal. Code Regs. tit. 27, § 25600.2(g) (2018) the retail seller noticed on this 60-Day Notice is hereby requested to promptly provide the names and contact information for the manufacturer(s), producer(s), packager(s), importer(s), supplier(s), and/or distributor(s) of the product(s) identified in this Notice.

CAG remains open and willing 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: 12/22/2023



Reuben Yeroushalmi
Yeroushalmi & Yeroushalmi
Attorneys for Consumer Advocacy Group, Inc.

chemical. Some exposures are exempt from the warning requirement under certain circumstances discussed below.

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. Some discharges are exempt from this requirement under certain circumstances discussed below.

DOES PROPOSITION 65 PROVIDE ANY EXEMPTIONS?

Yes. You should consult the current version of the statute and regulations (<http://www.oehha.ca.gov/prop65/law/index.html>) to determine all applicable exemptions, the most common of which are the following:

Grace Periods. Proposition 65 warning requirements do not apply until 12 months after the chemical has been listed. The Proposition 65 discharge prohibition does not apply to a discharge or release of a chemical that takes place less than 20 months after the listing of the chemical.

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.

Businesses with nine or fewer employees. Neither the warning requirement nor the discharge prohibition applies to a business that employs a total of nine or fewer employees. This includes all employees, not just those present in California.

Exposures that pose no significant risk of cancer. For chemicals that are listed under Proposition 65 as known to the State to cause cancer, a warning is not required if the business causing the exposure 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” (NSRLs) for many listed carcinogens. Exposures below these levels are exempt from the warning requirement. See OEHHA's website at: <http://www.oehha.ca.gov/prop65/getNSRLs.html> for a list of NSRLs, and Section 25701 *et seq.* of the regulations for information concerning how these levels are calculated.

Exposures that will produce no observable reproductive effect at 1,000 times the level in question. For chemicals known to the State to cause reproductive toxicity, a warning is not required if the business causing the exposure 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” divided by 1,000. This number is known as the Maximum Allowable Dose Level (MADL). See OEHHA's website at: <http://www.oehha.ca.gov/prop65/getNSRLs.html> for a list of MADLs, and Section 25801 *et seq.* of the regulations for information concerning how these levels are calculated.

Exposures to Naturally Occurring Chemicals in Food. Certain exposures to chemicals that naturally occur in foods (i.e., that do not result from any known human activity, including activity

- An exposure to listed chemicals in engine exhaust, to the extent the exposure occurs inside a facility owned or operated by the alleged violator and primarily intended for parking non-commercial vehicles.

If a private party alleges that a violation occurred based on one of the exposures described above, the private party must first provide the alleged violator a notice of special compliance procedure and proof of compliance form.

A copy of the notice of special compliance procedure and proof of compliance form can be downloaded from OEHHA's website at: <http://oehha.ca.gov/prop65/law/p65law72003.html>.

FOR FURTHER INFORMATION ABOUT THE LAW OR REGULATIONS. . .

Contact the Office of Environmental Health Hazard Assessment's Proposition 65 Implementation Office at (916) 445-6900 or via e-mail at P65Public.Comments@oehha.ca.gov.

Revised: May 2017

¹ All further regulatory references are to sections of Title 27 of the California Code of Regulations unless otherwise indicated. The statute, regulations and relevant case law are available on the OEHHA website at: <http://www.oehha.ca.gov/prop65/law/index.html>.

² See Section 25501(a)(4).

Note: Authority cited: Section 25249.12, Health and Safety Code. Reference: Sections 25249.5, 25249.6, 25249.7, 25249.9, 25249.10 and 25249.11, Health and Safety Code.

CERTIFICATE OF SERVICE

I am over the age of 18 and not a party to this case. I am a resident of or employed in the county where the mailing occurred. My business address is 9100 Wilshire Boulevard, Suite 240W, Beverly Hills, CA 90212.

ON THE DATE SHOWN BELOW, I 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: Beverly Hills, CA

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

Current President/CEO
Wal-Mart Stores, Inc.
702 SW 8th Street
Bentonville, AR

Doug C McMillon, CEO
Walmart, Inc.
702 SW 8th Street
Bentonville AR 72716

Walmart, Inc.
Agent for Service of Process
1505 Corp
CT Corporation System
330 N Brand Blvd.
Glendale, CA8

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

See Distribution 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: 12-22-2023



By: Diane Gonzalez

Distribution List

Alpine County District Attorney PO Box 248 Markleeville, CA 96120	Madera County District Attorney 209 W Yosemite Ave Madera, CA 93637	Stanislaus County District Attorney PO Box 442 Modesto, CA 95353
Amador County District Attorney 708 Court, Suite 202 Jackson, CA 95642	Marin County District Attorney 3501 Civic Center Drive, #130 San Rafael, CA 94903	San Mateo County District Attorney 400 County Center Redwood City, CA 94063
Butte County District Attorney 25 County Center Dr. Oroville, CA 95965-3385	Mendocino County District Attorney P.O. Box 1000 Ukiah, CA 95482	Trinity County District Attorney PO Box 310 Weaverville, CA 96093
Colusa County District Attorney 346 5th Street, Suite 101 Colusa, CA 95932	Modoc County District Attorney 204 S. Court Street Alturas, CA 96101-4020	Tehama County District Attorney P.O. Box 519 Red Bluff, CA 96080
Del Norte County District Attorney 450 "H" St. Crescent City, CA 95531	Mono County District Attorney PO Box 617 Bridgeport, CA 93517	Tuolumne County District Attorney 2 S Green St Sonora, CA 95370
El Dorado County District Attorney 515 Main St. Placerville, CA 95667-5697	Orange County District Attorney PO Box 808 Santa Ana, CA 92702	Yuba County District Attorney 215 5th St Marysville, CA 95901
Glenn County District Attorney PO Box 430 Willows, CA 95988	Sutter County District Attorney 446 Second Street Yuba City, CA 95991	
Humboldt County District Attorney 825 5th St., 4th Floor Eureka, CA 95501	San Benito County District Attorney 419 4th St Hollister, CA 95023	
Imperial County District Attorney 939 W. Main St., 2nd Floor El Centro, CA 92243-2860	San Bernardino County District Attorney 303 W 3rd St San Bernardino, CA 92415	
Kern County District Attorney 1215 Truxtun Ave. Bakersfield, CA 93301	Siskiyou County District Attorney PO Box 986 Yreka, CA 96097	
Kings County District Attorney Gov't Ctr, 1400 W Lacey Blvd Hanford, CA 93230	Solano County District Attorney 600 Union Ave Fairfield, CA 94533	
Los Angeles County District Attorney 210 W Temple St, 18th Floor Los Angeles, CA 90012	Shasta County District Attorney 1355 West Street Redding, CA 96001	
Los Angeles City Attorney 200 N Main St Ste 1800 Los Angeles CA 90012	Sierra County District Attorney PO Box 457 Downieville, CA 95936-0457	
Lake County District Attorney 255 N Forbes St Lakeport, CA 95453-4790	San Jose City Attorney 151 W. Mission St. San Jose, CA 95110	

Electronic Service

Alameda County District Attorney CEPDProp65@acgov.org	Contra Costa County Deputy District Attorney sgrassini@contracostada.org	Calaveras County District Attorney Prop65Env@co.calaveras.ca.us
Monterey County District Attorney Prop65DA@co.monterey.ca.us	Inyo County District Attorney inyoda@inyocounty.us	Lassen County Program Coordinator dchandler@co.lassen.ca.us
Sacramento County District Attorney Prop65@sacda.org	Napa County District Attorney CEPD@countyofnapa.org	Riverside County District Attorney Prop65@rivcoda.org
San Francisco Assistant District Attorney alexandra.grayner@sfgov.org	Santa Barbara County Deputy District Attorney DAProp65@co.santa-barbara.ca.us	Santa Clara Supervising Deputy District Attorney EPU@da.sccgov.org
San Francisco Deputy City Attorney Prop65@sfcityvatty.org	Santa Cruz County District Attorney Prop65DA@santacruzcounty.us	San Diego Deputy City Attorney CityAttyProp65@sandiego.gov
Sonoma County District Attorney Jeannie.Barnes@sonoma-county.org	San Joaquin County District Attorney DAConsumer.Environmental@sjcda.org	San Luis Obispo County Deputy District Attorney edobroth@co.slo.ca.us
Tulare County District Attorney Prop65@co.tulare.ca.us	Ventura County District Attorney daspecialops@ventura.org	Yolo County District Attorney cfepd@yolocounty.org
Mariposa County District Attorney mcdca@mariposacounty.org	Merced County District Attorney Prop65@countyofmerced.com	Nevada County District Attorney DA.Prop65@co.nevada.ca.us
Placer County District Attorney prop65@placer.ca.gov	Plumas County District Attorney davidhollister@countyofplumas.com	Santa Clara City Attorney Proposition65notices@sanjoseca.gov
Fresno County District Attorney consumerprotection@fresnocountyca.gov	San Diego District Attorney SanDiegoDAProp65@sdcca.org	San Mateo County District Attorney PROP65@smcgov.org
El Dorado County District Attorney EDCDAPROP65@edcda.us	Marin County District Attorney consumer@marincounty.org	