

SIXTY-DAY NOTICE OF VIOLATION

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

DATE: October 18, 2024

TO: Guangzhou Yikai Trading Co., Ltd.; Amazon.com, Inc.
California Attorney General's Office
District Attorneys and Certain City Attorneys throughout California

FROM: William Adamyan

I. INTRODUCTION

My name is William Adamyan ("Plaintiff"). 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 consumer products sold in California and, if possible, to improve human health by reducing hazardous substances contained in such items. This 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 violators, Guangzhou Yikai Trading Co. Ltd., as well as Amazon.com, Inc. 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 chemical), as follows:

Products:	Metal Fishing Egg Sinkers
Listed Chemical(s):	Lead
Results of Exposure:	Inhalation, Ingestion and Dermal
Types of Harm:	Cancer, Birth Defects and Other Reproductive Harm

II. PROPOSITION 65 INFORMATION - SUMMARY

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, enclosed and attached as APPENDIX A is a copy of "The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary" which has been prepared by OEHHA.

III. NATURE OF ALLEGED VIOLATION (CONSUMER PRODUCT EXPOSURE)

Metal Fishing Egg Sinkers that have caused 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. 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.

California citizens, through the act of buying, acquiring, receiving or utilizing the Products, are exposed to the listed chemical. By way of example, consumers, 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 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/or 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.

Exposures to the Listed Chemical from the ordinary and foreseeable use of the Products have been occurring without the “clear and reasonable warning” required by Proposition 65. Without proper warnings regarding the toxic effects and implications of exposure to the Listed Chemical, California citizens lack the information necessary to make informed decisions as to whether and how to eliminate or reduce the risk of being exposed to the Listed Chemical.

The Violators knowingly disregarded this toxic chemical exposure and knowingly and intentionally continued to place this product in the stream of commerce in California, thereby exposing consumers within the State of California to the Listed Chemical, a chemical known to the State of California to cause cancer, birth defects, and other reproductive harm, without first giving clear and reasonable warning of this exposure. The Violators failed to provide a clear and reasonable warning to consumers that the Products exposes consumers to the Listed Chemical and the type of harm that may ensue.

Any settlement, civil complaint or substantive court orders in this matter shall be submitted/uploaded onto the state Attorney General’s portal as may be required by law.

IV. NUMBER AND DURATION OF VIOLATIONS

Each and every sale of Products to a consumer in California without a clear and reasonable warning is a violation, including transactions made over-the-counter, through the internet, or via

catalog. These violations have been occurring since at least August 1, 2024, as well as every day since the Products were first introduced and sold in the State of California. These violations will continue until “clear and reasonable warnings” are provided prior to exposing California consumers to the Listed Chemicals.

V. RESOLUTION OF NOTICED CLAIMS

Consistent with the goals of Proposition 65 and a desire to have these violations corrected, Plaintiff is interested in seeking a resolution of this matter that includes a binding written agreement by the Violators to: (1) recall any products already sold or undertake best efforts to ensure that the requisite health hazard warnings are provided to those who have received such products; (2) reformulate the Covered Product so as to eliminate further exposures to the Covered Chemical(s) or provide appropriate warnings on the labels of these products; and (3) pay an appropriate civil penalty. Such a resolution will prevent further unwarned consumer exposure to the Listed Chemical, as well as expensive and time-consuming litigation. It should be noted that counsel cannot (1) finalize any settlement until after the 60-day notice period has expired; or (2) speak for the California Attorney General or any District or City Attorney who has received this notice. Therefore, while reaching an agreement with Plaintiff will resolve its claims, such an agreement may not satisfy the public prosecutors.

Proposition 65 requires that notice of intent to sue be given to the Violators sixty (60) days before the suit is filed. Cal. Health & Safety Code § 25249.7(d)(1). With this letter, Plaintiff gives notice of the violations to the Violators and the appropriate governmental authorities. In the absence of any action by the appropriate governmental authorities within sixty (60) calendar days of the sending of this notice, Plaintiff may file an enforcement action. *See Cal. Code Civ. Proc. § 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 Covered Product in this Notice.

Plaintiff remains open and willing to discuss the possibilities of resolving this violation short of instituting an enforcement action in the public interest pursuant to Cal. Health & Safety Code § 25249.7(d).

VI. PRESERVATION OF EVIDENCE

This Notice also serves as a demand that the Notice Recipients preserve and maintain all relevant evidence, including all electronic documents and data, pending the resolution of this matter. Such relevant evidence includes but is not limited to all documents relating to the presence of the Listed Chemicals in the Covered Product; purchase and sales information for Covered Product (i.e., purchasers; suppliers; quantity; the identity of the manufacturer(s), producer(s), packager(s), importer(s), supplier(s), and/or distributor(s), quantity per transaction, as well as the

suppliers of the raw material, the current inventory of the Covered Product in California); efforts to comply with Proposition 65 with respect to the Covered Product; communications with any person relating to the presence or potential presence of the Listed Chemical in Covered Product.

This demand applies to all relevant evidence related to the Covered Product offered for sale in the State of California as far back as August 1, 2024, through the date of any trial of the claims in this Notice.

VII. CERTIFICATE OF MERIT

Pursuant to Health & Safety Code §25249.6 and Title 11, California Code of Regulations, section 3100, a Certificate of Merit is attached hereto. A second copy of the entire notice and Certificate of Merit is served on the Attorney General with all supporting documentation required by section 3102 attached hereto.

VIII. 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:

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Robert A Waller, Jr.
Law Office of Robert A Waller, Jr.
P.O. Box 999
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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.

On October 18, 2024, I caused to be served the following documents:

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

By **Mail** by depositing it at a U.S. Postal Service office with postage fully prepaid for delivery by First Class International Mail by sending a true and correct copy of the foregoing documents at the mail address shown below:

Business Name: Guangzhou Yikai Trading Co., Ltd.

Business Address:

白云区龙归街永兴牛岗西街一巷1号之一401
广州市
白云区
广东
510220
CN

Business Name: Guangzhou Yikai Trading Co., Ltd. (translated into English):

Business Address:

No. 401, No. 1, Lane 1, Niugang West Street, Yongxing, Longgui Street, Baiyun District
Guangzhou City
Baiyun District
Guangdong
510220
CHINA

On October 18, 2024, I caused to be served the following documents:

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

By **Mail** by depositing it at a U.S. Postal Service office with postage fully prepaid for delivery by Certified Mail by sending a true and correct copy of the foregoing documents at the mail address shown below:

Amazon.com, Inc.
Corporation Service Company
300 Deschutes Way SW, Suite 208 MC-CSC1
Tumwater, WA 98501
Attn: Legal Department – Legal Process

On October 18, 2024, I caused to be served the following documents:

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

By **Electronic Mail** by sending true and correct copies of the above documents to the electronic notification addresses on the attached “Email Service List.”

On October 18, 2024, I caused to be served the following documents:

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

THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986

(PROPOSITION 65): A SUMMARY;

CERTIFICATE OF MERIT; and

CERTIFICATE OF MERIT ATTACHMENTS

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 **October 18, 2024**, in San Diego, California.



Robert Radulescu

CERTIFICATE OF MERIT

California Health & Safety Code Section 25249.7(d)

I, Robert Radulescu, 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 one of the attorneys 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 notice and/or the listed chemical in substantially similar products sold through one or more downstream sellers of the Products including amazon.com;
4. Based on the information obtained through those consultations and 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 claims 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. A 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 §25249.7(h)(2) (*i.e.*, (1) the identity of the persons consulted with and relied on by the certifier and (2) certain facts, studies, or other data reviewed by those persons).

Dated: October 18, 2024

A handwritten signature in black ink, appearing to be 'R. Radulescu', is written over a horizontal line.

Robert Radulescu

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>

APPENDIX A

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

The following summary has been prepared by the California Office of Environmental Health Hazard Assessment (OEHHA), the lead agency for the implementation of the Safe Drinking Water and Toxic Enforcement Act of 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 authoritative guidance on the meaning or application of the law. The reader is directed to the statute and OEHHA implementing regulations (see citations below) for further information.

FOR INFORMATION CONCERNING THE BASIS FOR THE ALLEGATIONS IN THE NOTICE RELATED TO YOUR BUSINESS, CONTACT THE PERSON IDENTIFIED ON THE NOTICE.

The text of Proposition 65 (Health and Safety Code Sections 25249.5 through 25249.13) is available online at: <http://oehha.ca.gov/prop65/law/P65law72003.html>. 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 of Regulations, sections 25102 through 27001.¹ These implementing regulations are available online at: <http://oehha.ca.gov/prop65/law/P65Regs.html>.

WHAT DOES PROPOSITION 65 REQUIRE?

The "Proposition 65 List." Under Proposition 65, the lead agency (OEHHA) publishes a list of chemicals that are known to the State of California to cause cancer and/or reproductive toxicity. Chemicals are placed on the Proposition 65 list if they are known to cause cancer and/or birth defects or other reproductive harm, such as damage to

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>.

female or male reproductive systems or to the developing fetus. This list must be updated at least once a year. The current Proposition 65 list of chemicals is available on the OEHHA website at: http://www.oehha.ca.gov/prop65/prop65_list/Newlist.html.

Only those chemicals that are on the list are regulated under Proposition 65. Businesses that produce, use, release or otherwise engage in activities involving listed 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 unless an exemption applies. 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 to that 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 Period. 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 by someone other than the person causing the exposure) are exempt from the warning requirements of the law. If the chemical is a contaminant² it must be reduced to the lowest level feasible. Regulations explaining this exemption can be found in Section 25501.

Discharges that do not result in a “significant amount” of the listed chemical entering 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 listed chemical has not, does not, or will not pass into or probably pass into a source of drinking water, and that the discharge complies with all other applicable laws, regulations, permits, requirements, or orders. A “significant amount” means any detectable amount, except an amount that would meet the “no significant risk” level for chemicals that cause cancer or that is 1,000 times below the “no observable effect” level for chemicals that cause reproductive toxicity, if an individual were exposed to that amount in drinking water.

² See Section 25501(a)(4).

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. Lawsuits 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. The notice must comply with the information and procedural requirements specified in Section 25903 of Title 27 and sections 3100-3103 of Title 11. A private party may not pursue an independent enforcement action under Proposition 65 if one of the governmental officials noted above initiates an enforcement action within sixty days of the 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 to stop committing the violation.

A private party may not file an enforcement action based on certain exposures if the alleged violator meets specific conditions. For the following types of exposures, the Act provides an opportunity for the business to correct the alleged violation:

- An exposure to alcoholic beverages that are consumed on the alleged violator's premises to the extent onsite consumption is permitted by law;
- An exposure to a Proposition 65 listed chemical in a food or beverage prepared and sold on the alleged violator's premises that is primarily intended for immediate consumption on- or off-premises. This only applies if the chemical was not intentionally added to the food, and was formed by cooking or similar preparation of food or beverage components necessary to render the food or beverage palatable or to avoid microbiological contamination;
- An exposure to environmental tobacco smoke caused by entry of persons (other than employees) on premises owned or operated by the alleged violator where smoking is permitted at any location on the premises;
- 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 is included in Appendix B and 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

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.