

SUPPLEMENTAL SIXTY-DAY NOTICE OF VIOLATION

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

DATE: December 17, 2025

TO: W. Rodney McMullen, CEO – The Kroger Co.
California Attorney General's Office;
District Attorneys and Certain City Attorneys Throughout California

FROM: Jay Epps

My name is Jay Epps. 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 notice supplements the Sixty-Day Notice of Violation sent on January 24, 2025, 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, The Kroger Co. (in its role as a retailer transacting sales through its own websites as defined in the last paragraph of Section 1 below and online platforms of its affiliated partners), which is a person in the course of doing business in California (Violator). The violations covered by this notice consist of the Enoz moth ball products at issue, route of exposure and type of harm potentially resulting from exposure to the hazardous substances identified below (listed chemical), as follows:

Products:	Moth Balls (Manufactured by Willert Home Products and/or Branded Under The “Enoz” Name)
Listed Chemical:	Naphthalene
Route of Exposure:	Inhalation, Ingestion and Dermal
Types of Harm:	Cancer

Products:	Moth Balls (Manufactured by Willert Home Products and/or Branded Under The “Enoz” Name)
Listed Chemical:	<i>p</i> -dichlorobenzene (p-DCB)
Route of Exposure:	Inhalation, Ingestion and Dermal
Types of Harm:	Cancer

The violations also include orders placed on any of its websites with the method of delivery being curbside pickup at one of its brick-and-mortar stores in California.

I. NATURE OF ALLEGED VIOLATION (CONSUMER PRODUCT EXPOSURE)

The specific product that is 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 “Product” or “Products.” Exposures to either of 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 March 1, 2022. 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 listed chemical from a reasonably foreseeable use of the Products.

California citizens, through the act of buying, acquiring, receiving and/or utilizing the Products, are exposed to the listed chemical. By way of example, consumers and other individuals 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 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 significant amounts of inhalation exposure to the listed chemical.

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, by which the Products are branded (e.g., manufacturer’s name appears on Product label), occurring outside the State of California so long as the named manufacturer is 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 sales means each transaction must provide the customer with a clear and reasonable warning for the risk of cancer pursuant to Proposition 65 and its implementing regulations prior to purchase. The Violator’s role alleged in its notice is limited to that of a retail seller transacting sales through its online platforms — including, but not limited to, kroger.com, ralphs.com, gerbes.com, food4less.com, foodsco.net, citymarket.com and any other website owned by the Violator (Websites) — as well as through its affiliated partners’ websites that act as fulfillment centers and/or facilitate the delivery of Products to consumers in California.

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:¹

Jay Epps
c/o Clifford A. Chanler
Chanler, LLC
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clifford@chanlerllc.com

Jay Epps
c/o Steven Y. Chen
Steven Y. Chen, APLC
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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 against the Violator unless it 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 online in the future or, preferably, undertake best efforts to ensure upstream selling entities in the chain of commerce reformulate such Products to eliminate the *p*-DCB and naphthalene content in the Products; or delist the offending Products from the Violator's own and affiliated partners' websites; 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 any 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 city attorneys whom received this supplemental notice.

¹ Should your attempt to contact me through my counsel be unsuccessful, I can be reached by mail at 1010 Liberty Drive, Suisun, CA 94585, or by phone at (415) 849-6181.

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 2650 River Avenue, Unit A, Rosemead, CA 91770.

On **December 17, 2025**, 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 Personal Service** by causing true and correct copies of the above documents to be personally delivered to each alleged violator, their agents or to the party or person authorized to receive the above documents for the alleged violator listed below.

W. Rodney McMullen, CEO
The Kroger Co.
1014 Vine Street, Suite 1000
Cincinnati, OH 45202-1100

On **December 17, 2025**, 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 addresses on the attached "Email Service List."

On **December 17, 2025**, 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 **December 17, 2025**, in Rosemead, California.



Steven Chen

CERTIFICATE OF MERIT

California Health & Safety Code §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 chemical that are 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: December 17, 2025



Clifford A. Chanler

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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>