

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.*) (“Proposition 65”)

October 31, 2014

Eric Smidt, CEO, or  
Current CEO/President  
Harbor Freight Tools USA, Inc.  
3491 Mission Oaks Blvd  
Camarillo, CA 93012

Eric Smidt, CEO, or  
Current CEO/President  
Harbor Freight Tools USA, Inc.  
26541 Agoura Road  
Calabasas, CA 91302

Eric Smidt, CEO, or  
Current CEO/President  
Central Purchasing, LLC  
3491 Mission Oaks Blvd  
Camarillo, CA 93012

Eric Smidt, CEO, or  
Current CEO/President  
Harbor Freight Tools Hesperia  
CA #00006  
11940 Hesperia Road  
Hesperia, CA 92345

Eric Smidt, CEO, or  
Current CEO/President  
Harbor Freight Tools #00217  
22912 Victory Blvd.  
Woodland Hills, CA 91367

Eric Smidt, CEO, or  
Current CEO/President  
Harbor Freight Tools  
Westminster CA #00029  
15439 Goldenwest St.  
Westminster, CA 92683

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

Re: Violations of Proposition 65 concerning **Hand Tools, Recreational Accessories,  
Automotive Accessories, and Bicycle Accessories Containing Di (2-ethylhexyl) phthalate  
("DEHP")**

To whom else this may concern:

**Consumer Advocacy Group, Inc. ("CAG")**, the noticing entity, located at **9903 Santa Monica Boulevard #225, Beverly Hills, California 90212**, serves this Notice of Violation ("Notice") on Harbor Freight Tools USA, Inc., Central Purchasing, LLC, Harbor Freight Tools Hesperia CA #00006, Harbor Freight Tools #00217 and Harbor Freight Tools Westminster CA #00029, (collectively "Violators") pursuant to and in compliance with Proposition 65. Violators may contact CAG concerning this Notice through its designated person within the entity, 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 environment, improving human health, and supporting environmentally sound 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.
- **Hand Tools, Recreational Accessories, Automotive Accessories, and Bicycle Accessories** contain **Di (2-ethylhexyl) phthalate (“DEHP”)**, also known as Diethyl Hexyl Phthalate and Bis (2-ethylhexyl) phthalate. CAG has discovered **Hand Tools** specifically **Ratchet Wrenches, Tile Cutters, Oil Filter Wrenches, Wire Strippers, Pliers, Grommet Pliers, Wire Crimping Tools with Vinyl Grips (“Crimping Tool”), Threaded Insert Riveter Kits with Vinyl Grips (“Riveters”), and Bolt Cutters with Vinyl Grips (“Bolt Cutters”)** containing **DEHP**. DEHP is known to the State of California to cause both cancer and reproductive toxicity, developmental, male. On January 1, 1988, the Governor of California added DEHP to the list of chemicals known to the State to cause cancer, and on October 24, 2003, the Governor added DEHP to the list of chemicals known to the State to cause developmental male reproductive toxicity. Both additions took place more than twenty (20) months before CAG served this Notice.
  - An exemplar of the violations caused by **Ratchet Wrenches** includes but is not limited to:
    - **PITTSBURGH® Automotive 5/16” Side-Terminal Battery Ratchet Wrench, “For use on 5/16” battery terminal bolts found on GM and most other domestic vehicles”, “Reversible, ratcheting box wrench; Insulated vinyl grip handle to prevent electrical shock”, “Satin chrome-plated finish to resist corrosion”, “Overall dimensions: 5-5/8”L x 3/4”W”, “Distributed by Harbor Freight Tools, Camarillo, CA, www.HarborFreight.com, Item 97261, Made in China, circular sticker placed to package with numbers: 36972 492011, barcode: 7 92363 97261 1**
  - An exemplar of the violations caused by **Tile Cutters** includes but is not limited to:
    - **Mosaic Tile Cutter/Nipper with plastic coated grips, “Precision cutting of glass & porcelain mosaic tile”, “Cuts seashells & high-fired ceramics up to 1/4” thick”, “Includes long lasting carbide cutting wheels & allen wrench”, 8” long, “Distributed Exclusively by Harbor Freight Tools, www.HarborFreight.com, Item 97377, Made in China, circular sticker placed to package with numbers 36513 282012, barcode: 7 92363 97377 9**
  - An exemplar of the violations caused by **Oil Filter Wrenches** includes but is not limited to:
    - **PITTSBURGH® Automotive 3 3/4” Swivel Handle Oil Filter Wrench, “Fits filters 3 1/4” to 3 3/4”, “Non-slip rubber gripper even works on dented or oily filters”, “Distributed by Harbor Freight Tools, Camarillo, CA, www.HarborFreight.com, Item 68963, Made in China, circular sticker placed to package with numbers 36239 422012, barcode: 7 92363 68963 2**
    - **PITTSBURGH® Automotive 2” to 4 1/4” Oil Filter Wrench with thick black polymer grips, “LUBE” Item 36778 “Bite into the filter for a non-slip grip”, “12 1/4” handle gives you the extra reach and torque you need”, “Handles 2” to 4 1/4” diameter oil filters”, “Capacity: 2” to 4 1/4” Handle length: 12 1/4” “Distributed by Harbor Freight Tools, Camarillo, CA, www.HarborFreight.com, Made in China, circular sticker placed to package with numbers 36239 262013, barcode: 7 92363 36778 3**

- An exemplar of the violations caused by **Wire Strippers** includes but is not limited to:
  - **PITTSBURGH® 7" "WIRE STRIPPER/CUTTER" with red PVC coated grips, "LIMITED LIFETIME WARRANTY", "Quickly Strips 10-20 AWG Wire", "Cuts and Threads Popular Bolt Sizes", "Distributed by Harbor Freight Tools, Camarillo, CA, www.HarborFreight.com, Item 98410, Made in China, barcode: 7 92363 98410 2**
  - **PITTSBURGH® 7" WIRE STRIPPER/ CUTTER, Lifetime Warranty; ITEM 61158; Distributed by Harbor Freight Tools, Camarillo, CA; Barcode: 7 92363 61158 9**
- An exemplar of the violations caused by **Pliers** includes but is not limited to:
  - **PITTSBURGH® 3 PC. SLIP JOINT PLIER SET, ITEM 9498, Distributed by Harbor Freight Tools, Camarillo, CA, UPC Code: 7 92363 09498 6**
  - **PITTSBURGH® 3 PC. 3" MICRO PLIER SET, "DIAGONAL, ROUND & FLAT NOSE PLIERS", "VINYL HANDLE GRIPS", ITEM 98876, UPC Code: 7 92363 98876 6**
  - **PITTSBURGH® LONG NOSE HIGH VOLTAGE INSULATED PLIERS, 8", ELECTRICALLY INSULATED HIGH VOLTAGE GRIPS CAN HANDLE UP to 1000 VOLTS; ITEM 96906; LIMITED LIFETIME WARRANTY; JAW DEPTH: 2".; JAW OPENING: 1-1/2" MAXIMUM; OVERALL DIMENSIONS: 8" L X 2-3/8" W X 2-1/2" H.; Distributed by Harbor Freight Tools, Camarillo, CA; Barcode: 7 92363 96906 2**
- An exemplar of the violations caused by **Grommet Pliers** includes but is not limited to:
  - **Pittsburgh® 2" GROMMET PLIERS WITH 100 GROMMETS, ITEM 66707, "GROMMET SET: 5-3/4" Long, 3/4" JAW OPENING", Barcode: 7 92363 66707 4**
- An exemplar of the violations caused **Crimping Tools** includes but is not limited to:
  - **PITTSBURGH® 9 ½" WIRE CRIMPING TOOL, Lifetime Warranty; ITEM 36411; Carbon steel construction, Oil resistant grip, Meets or exceed ANSI standards; Distributed by Harbor Freight Tools, Camarillo, CA; Barcode: 7 92363 36411 9**
- An exemplar of the violations caused by **Riveters** includes but is not limited to:
  - **PITTSBURGH® 45 PC. THREADED INSERT RIVETER; ITEM 1210; LIFETIME WARRANTY; Maximum rivet capacity: 1/4", Kit Contains Heavy Duty Setting Tool, Four Nosepieces, 6-32, 8-32, 10-24 and 1/4-20 Inserts (10 Each); Distributed by Harbor Freight Tools, Camarillo, CA; Barcode: 7 92363 01210 2**
- An exemplar of the violations caused **Bolt Cutters** includes but is not limited to:
  - **PITTSBURGH® 14" ALUMINUM BOLT CUTTER; ITEM 60721; Lifetime Warranty; 350MM, ALUMINUM; Heavy duty chrome vanadium steel blades,**

**Aluminum alloy handles, Cuts chain and bolts up to 1/4" thick, Maximum jaw opening: 1/2"; Distributed by Harbor Freight Tools, Camarillo, CA; Barcode: 7 92363 60721 6**

- In addition, CAG has discovered **Recreational Accessories** specifically **Binoculars** containing **DEHP**.
  - An exemplar of the violations caused by **Binoculars** includes but is not limited to:
    - **GORDON® Compact Binoculars, "ITEM 92442", "10 x 25mm Objective Lens", "FIELD OF VIEW: 288 FT. @ 1000 YD.", "Fully Coated Optics 288 FT/1000YDS 96M/1000M", Barcode: 7 92363 92442 9**
  
- In addition, CAG has discovered **Automotive Accessories** specifically **Windshield Removing Tools ("Windshield Removers")** and **Brake Bleeders and Vacuum Pump Kits ("Brake Bleeders")** containing **DEHP**.
  - An exemplar of the violations caused **Windshield Removers** includes but is not limited to:
    - **PITTSBURGH® AUTOMOTIVE Windshield Removing Tool; BODY; Use to remove caulking compound around windshields; Tempered steel blade; Pull handle provides additional leverage; Distributed by Harbor Freight Tools, Camarillo, CA; Bar Code: 7 92363 60298 3**
  - An exemplar of the violations caused **Brake Bleeders** includes but is not limited to:
    - **PITTSBURGH® AUTOMOTIVE Brake Bleeder and Vacuum Pump Kit; BRAKE; 14 PIECE; ITEM 60770; Distributed by Harbor Freight Tools, Camarillo, CA; Bar Code: 7 92363 60770 4**
  
- In addition, CAG has discovered **Bicycle Accessories** specifically **Bicycle Locks with Vinyl Coating ("Bicycle Locks")** containing **DEHP**.
  - An exemplar of the violations caused **Bicycle Locks** includes but is not limited to:
    - **Armored Steel Segmented Cable Key Lock with blue vinyl coating, ITEM: 65232**
  
- 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. § 25602(b)*.

Violators caused consumer product exposures in violation of Proposition 65 by producing or making available **Ratchet Wrenches, Tile Cutters, Oil Filter Wrenches, Wire Strippers, Pliers, Grommet Pliers, Crimping Tools, Riveters, Bolt Cutters, Binoculars, Windshield Removers, Brake Bleeders, and Bicycle Locks** for distribution or sale in California to consumers. The packaging for **Ratchet Wrenches, Tile Cutters, Oil Filter Wrenches, Wire Strippers, Pliers, Grommet Pliers, Crimping Tools, Riveters, Bolt Cutters, Binoculars, Windshield Removers, Brake Bleeders, and Bicycle Locks** (meaning any label or other written, printed or graphic matter affixed to or accompanying the product or its container or wrapper) contains no warning or Proposition 65-compliant warning. Nor did Violator, with

regard to **Ratchet Wrenches, Tile Cutters, Oil Filter Wrenches, Wire Strippers, Pliers, Grommet Pliers, Crimping Tools, Riveters, Bolt Cutters, Binoculars, Windshield Removers, Brake Bleeders, and Bicycle Locks**, provide a system of signs, public advertising identifying the system and toll-free information services, or any other system, which provided warning or clear and reasonable warnings. Nor did Violator, with regard to **Ratchet Wrenches, Tile Cutters, Oil Filter Wrenches, Wire Strippers, Pliers, Grommet Pliers, Crimping Tools, Riveters, Bolt Cutters, Binoculars, Windshield Removers, Brake Bleeders, and Bicycle Locks**, provide identification of the product at retail outlets in a manner that provided a warning through shelf labeling, signs, menus, or a combination thereof.

- This Notice also concerns occupational exposures. An “[o]ccupational exposure’ means an exposure to any employee in his or her employer’s workplace.” *Cal. Code Regs. tit. 27, § 25602(f)*.<sup>1</sup>

Violators, Harbor Freight Tools Hesperia CA #00006, Harbor Freight Tools #00217, and Harbor Freight Tools #00029, caused occupational exposures, to their respective products, in violation of Proposition 65 by allowing employees to handle the **Wire Strippers, Pliers, Crimping Tools, Bolt Cutters, and Bicycle Locks** in the course of packaging, shipping, distributing, promoting, and selling the **Wire Strippers, Pliers, Crimping Tools, Bolt Cutters, and Bicycle Locks** without having first given warning or clear and reasonable warnings to such employees that, by handling the **Wire Strippers, Pliers, Crimping Tools, Bolt Cutters, and Bicycle Locks**, such employees would suffer exposures to **DEHP**. Violators’ employees were exposed to **DEHP** by touching the **Wire Strippers** with their bare skin at Violators’ premises located at Harbor Freight Tools #00217, 22912 Victory Blvd., Woodland Hills, CA 91367 among other locations where these activities take place including but not limited to other distributing, shipping, warehousing, packaging and retail centers. Violators’ employees were exposed to **DEHP** by touching the **Wire Strippers** and **Pliers** with their bare skin at Violators’ premises located at Harbor Freight Tools Westminster CA #00029, 15439 Goldenwest St., Westminster, CA 92683 among other locations where these activities take place including but not limited to other distributing, shipping, warehousing, packaging and retail centers. Violators’ employees were exposed to **DEHP** by touching the **Crimping Tools, Bolt Cutters, and Bicycle Locks** with their bare skin at Violators’ premises located at Harbor Freight Tools Hesperia CA #00006, 11940 Hesperia Road, Hesperia, CA 92345 among other locations where these activities take place including but not limited to other distributing, shipping, warehousing, packaging and retail centers. Violators did not provide any warnings or any Proposition 65-compliant warnings on any of the products or any substance present or any sign or system of signs within the workplace.

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<sup>1</sup> CAG alleges occupational exposure only as to: Wire Strippers including but not limited to: “PITTSBURGH® 7” “WIRE STRIPPER/CUTTER” with red PVC coated grips, “LIMITED LIFETIME WARRANTY”, “Quickly Strips 10-20 AWG Wire”, “Cuts and Threads Popular Bolt Sizes”, “Distributed by Harbor Freight Tools, Camarillo, CA, www.HarborFreight.com, Item 98410, Made in China, barcode: 7 92363 98410 2” and “PITTSBURGH® 7” WIRE STRIPPER/ CUTTER, Lifetime Warranty; ITEM 61158; Distributed by Harbor Freight Tools, Camarillo, CA; Barcode: 7 92363 61158 9”; Pliers including but not limited to: “PITTSBURGH® LONG NOSE HIGH VOLTAGE INSULATED PLIERS, 8”, “ELECTRICALLY INSULATED HIGH VOLTAGE GRIPS CAN HANDLE UP TO 1000 VOLTS; ITEM 96906; LIMITED LIFETIME WARRANTY; JAW DEPTH: 2”; JAW OPENING: 1-1/2” MAXIMUM; OVERALL DIMENSIONS: 8” L X 2-3/8” W X 2-1/2” H.; Distributed by Harbor Freight Tools, Camarillo, CA; Barcode: 7 92363 96906 2”; Crimping Tools including but not limited to: “PITTSBURGH® 9 1/2” WIRE CRIMPING TOOL, Lifetime Warranty; ITEM 36411; Carbon steel construction, Oil resistant grip, Meets or exceeds ANSI standards; Distributed by Harbor Freight Tools, Camarillo, CA; Barcode: 7 92363 36411 9”; Bolt Cutters including but not limited to: “PITTSBURGH® 14” ALUMINUM BOLT CUTTER; ITEM 60721; Lifetime Warranty; 350MM, ALUMINUM; Heavy duty chrome vanadium steel blades, Aluminum alloy handles, Cuts chain and bolts up to 1/4” thick, Maximum jaw opening: 1/2”; Distributed by Harbor Freight Tools, Camarillo, CA; Barcode: 7 92363 60721 6”; and Bicycle Locks including but not limited to “Armored Steel Segmented Cable Key Lock with blue vinyl coating, ITEM: 65232”

***This notice alleges the violation of Proposition 65*** with respect to occupational exposures governed by the California State Plan for Occupational Safety and Health. The State Plan 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 (a) the conduct of manufacturers occurring outside the State of California; and (b) employers with less than ten (10) employees. The approval also provides that an employer may use any 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. Accordingly, any settlement, civil complaint, or substantive court orders in this matter must be submitted to the California Attorney General.

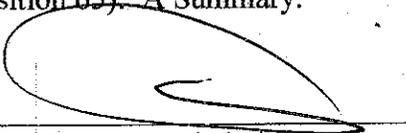
These violations occurred each day between October 31, 2011 and October 31, 2014, and are ever continuing thereafter.

The principal routes of exposure were through dermal contact, ingestion, and inhalation. Persons sustain exposures by handling the **Ratchet Wrenches, Tile Cutters, Oil Filter Wrenches, Wire Strippers, Pliers, Grommet Pliers, Crimping Tools, Riveters, Bolt Cutters, Binoculars, Windshield Removers, Brake Bleeders, and Bicycle Locks** without wearing gloves or by touching bare skin or mucous membranes with gloves after handling **Ratchet Wrenches, Tile Cutters, Oil Filter Wrenches, Wire Strippers, Pliers, Grommet Pliers, Crimping Tools, Riveters, Bolt Cutters, Binoculars, Windshield Removers, Brake Bleeders, and Bicycle Locks**, as well as direct and indirect hand to mouth contact, hand to food to mouth, direct contact to food then to mouth, hand to mucous membrane, or breathing in particulate matter emanating from the **Ratchet Wrenches, Tile Cutters, Oil Filter Wrenches, Wire Strippers, Pliers, Grommet Pliers, Crimping Tools, Riveters, Bolt Cutters, Binoculars, Windshield Removers, Brake Bleeders, and Bicycle Locks** during installation and use, as well as through environmental mediums that carry the DEHP once contained within the **Ratchet Wrenches, Tile Cutters, Oil Filter Wrenches, Wire Strippers, Pliers, Grommet Pliers, Crimping Tools, Riveters, Bolt Cutters, Binoculars, Windshield Removers, Brake Bleeders, and Bicycle Locks**.

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 Violator 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 (plus ten (10) calendar days because the place of address is beyond the State of California but within the United States), CAG may file suit. See *Cal. Code Civ. Proc.* § 1013; *Cal. Health & Safety Code* § 25249.7(d)(1); and *Cal. Code Regs.* tit. 27 § 25903(d)(1). 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: 10/31/14

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

## 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's 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.

Proposition 65 appears in California law as Health and Safety Code Sections 25249.5 through 25249.13. The statute 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.<sup>2</sup> These implementing regulations are available online at: <http://oehha.ca.gov/prop65/law/P65Regs.html>.

#### WHAT DOES PROPOSITION 65 REQUIRE?

**The "Governor's List."** Proposition 65 requires the Governor to publish a list of chemicals that are known to the State of California to cause cancer and/or reproductive toxicity. This means that 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 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](http://www.oehha.ca.gov/prop65/prop65_list/Newlist.html).

Only those chemicals that are on the list are regulated under this law. 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; for example, when exposures are sufficiently low (see below). The warning given must be "clear and reasonable." This means that the warning must: (1) clearly make known that the chemical

<sup>2</sup> 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>.

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. 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 as known to the State to cause cancer ("carcinogens"), a warning is not required if the business 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 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 a 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 a Food.** Certain exposures to chemicals that occur in foods naturally (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 contaminant<sup>3</sup> 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 into 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.

#### ***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 the regulations and in Title 11, sections 3100-3103. A private party may not pursue an independent enforcement action under Proposition 65 if one of the governmental officials noted above initiates an 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.

#### ***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](mailto:P65Public.Comments@oehha.ca.gov).

Revised: July, 2012

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

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<sup>3</sup> See Section 25501(a)(4)

**Hand Tools, Recreational Accessories, Automotive Accessories, and Bicycle Accessories  
containing DEHP**

**CERTIFICATE OF MERIT**

Health and Safety Code Section 25249.7(d)

I, Reuben Yeroushalmi, hereby declare:

1. This Certificate of Merit accompanies the attached sixty-day notice(s) in which it is alleged the party(s) identified in the notice(s) has violated Health and Safety Code section 25249.6 by failing to provide clear and reasonable warnings.
2. I am the attorney for the noticing party.
3. I have consulted with at least one person with relevant and appropriate experience or expertise who has reviewed facts, studies, or other data regarding the exposure to the listed chemical that is the subject of the action.
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 plaintiffs' 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, including the information identified in Health and Safety Code section 25249.7(h)(2), i.e., (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

Dated: 10/31/19

By: Reuben Yeroushalmi

**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:**

Eric Smidt, CEO, or  
Current CEO/President  
Harbor Freight Tools USA, Inc.  
3491 Mission Oaks Blvd  
Camarillo, CA 93012

Eric Smidt, CEO, or  
Current CEO/President  
Harbor Freight Tools USA, Inc.  
26541 Agoura Road  
Calabasas, CA 91302

Eric Smidt, CEO, or  
Current CEO/President  
Central Purchasing, LLC  
3491 Mission Oaks Blvd  
Camarillo, CA 93012

Eric Smidt, CEO, or  
Current CEO/President  
Harbor Freight Tools Hesperia  
CA #00006  
11940 Hesperia Road  
Hesperia, CA 92345

Eric Smidt, CEO, or  
Current CEO/President  
Harbor Freight Tools #00217  
22912 Victory Blvd.  
Woodland Hills, CA 91367

Eric Smidt, CEO, or  
Current CEO/President  
Harbor Freight Tools  
Westminster CA #00029  
15439 Goldenwest St.  
Westminster, CA 92683

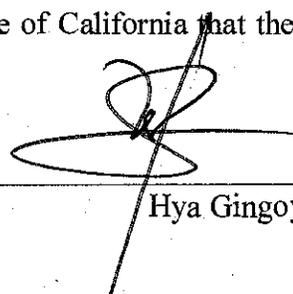
**Name and address of each public prosecutor to whom documents were mailed:**

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: Nov, 3, 2014

By: \_\_\_\_\_



Hya Gingoyon

## Distribution List

Alameda County District Attorney 1225 Fallon St, Room 900 Oakland, CA 94612	Los Angeles County District Attorney 210 W Temple St, 18th Floor Los Angeles, CA 90012	Mono County District Attorney PO Box 617 Bridgeport, CA 93517
Alpine County District Attorney PO Box 248 Markleeville, CA. 96120	Madera County District Attorney 209 W Yosemite Ave Madera, CA 93637	San Joaquin County District Attorney PO Box 990 Stockton, CA 95201-0990
Amador County District Attorney 708 Court, Suite 202 Jackson, CA 95642	Mariposa County District Attorney P.O. Box 730 Mariposa, CA 95338	San Francisco County District Attorney 850 Bryant St, Rm 322 San Francisco, CA 94103
Butte County District Attorney 25 County Center Dr. Oroville, CA 95965-3385	Marin County District Attorney 3501 Civic Center Drive, #130 San Rafael, CA 94903	San Diego County District Attorney 330 W. Broadway, Ste 1300 San Diego, CA 92101-3803
Calaveras County District Attorney 891 Mountain Ranch Road San Andreas, CA 95249	Mendocino County District Attorney P.O. Box 1000 Ukiah, CA 95482	San Bernardino County District Attorney 316 N Mountain View Ave San Bernardino, CA 92415-0004
Office of the Attorney General P.O. Box 70550 Oakland, CA 94612-0550	Los Angeles City Attorney 200 N Main St Ste 1800 Los Angeles CA 90012	San Francisco City Attorney # 1 Dr. Carlton B. Goodlett Place, Suite 234 San Francisco, CA 94102
Colusa County District Attorney Courthouse, 547 Market St. Colusa, CA 95932	Inyo County District Attorney P.O. Drawer D Independence, CA 93526	Placer County District Attorney 10810 Justice Center Drive Suite 240 Roseville, CA 95678-6231
Contra Costa County District Attorney 725 Court St., Room 402 Martinez, CA 94553	Orange County District Attorney PO Box 808 Santa Ana, CA 92702	Merced County District Attorney 650 W. 20 <sup>th</sup> Street Merced, CA 95340
Del Norte County District Attorney 450 "H" St. Crescent City, CA 95531	Nevada County District Attorney 201 Church St, Suite 8 Nevada City, CA 95959-2504	Napa County District Attorney PO Box 720 Napa, CA 94559-0720
El Dorado County District Attorney 515 Main St. Placerville, CA 95667-5697	Plumas County District Attorney 520 Main Street, Rm 404 Quincy, CA 95971	Riverside County District Attorney 3960 Orange St. Ste. 5 Riverside, CA 92501
Fresno County District Attorney 2220 Tulare St, Ste. 1000 Fresno, CA 93721	Sacramento County District Attorney 901 G Street Sacramento, CA 95814	San Benito County District Attorney 419 4th St Hollister, CA 95023
Glenn County District Attorney PO Box 430 Willows, CA 95988	San Luis Obispo County District Attorney County Government Center, Rm 450 San Luis Obispo, CA 93408	Siskiyou County District Attorney PO Box 986 Yreka, CA 96097
Humboldt County District Attorney 825 5th St., 4 <sup>th</sup> Floor Eureka, CA 95501	San Mateo County District Attorney 400 County Center Redwood City, CA 94063	Solano County District Attorney 600 Union Ave Fairfield, CA 94533
Imperial County District Attorney 939 W. Main St., 2 <sup>nd</sup> Floor El Centro, CA 92243-2860	Santa Barbara County District Attorney 1112 Santa Barbara St. Santa Barbara, CA 93101	Sonoma County District Attorney 600 Administration Dr., Rm 212-J Santa Rosa, CA 95403
Kern County District Attorney 1215 Truxtun Ave. Bakersfield, CA 93301	Santa Clara County District Attorney 70 W Hedding St. San Jose, CA 95110	Shasta County District Attorney 1525 Court St, 3rd Floor Redding, CA 96001-1632
Kings County District Attorney Gov't Ctr, 1400 W Lacey Blvd Hanford, CA 93230	Santa Cruz County District Attorney PO Box 1159 Santa Cruz, CA 95061	Sierra County District Attorney PO Box 457 Downieville, CA 95936-0457
Lake County District Attorney 255 N Forbes St Lakeport, CA 95453-4790	Stanislaus County District Attorney PO Box 442 Modesto, CA 95353	Trinity County District Attorney PO Box 310 Weaverville, CA 96093
Modoc County District Attorney 204 S. Court Street Alturas, CA 96101-4020	Sutter County District Attorney 446 Second Street Yuba City, CA 95991	Yuba County District Attorney 215 5th St Marysville, CA 95901
San Diego City Attorney City Center Plaza 1200 3rd Ave # 1100 San Diego, CA 92101	Lassen County District Attorney 200 S Lassen St, Suite 8 Susanville, CA 96130	Monterey County District Attorney PO Box 1131 Salinas, CA 93902
Tuolumne County District Attorney 2 S Green St Sonora, CA 95370	Tulare County District Attorney County Civic Center, Rm 224 Visalia, CA 93291	Yolo County District Attorney 310 Second St Woodland, CA 95695
Ventura County District Attorney 800 S Victoria Ave Ventura, CA 93009	Tehama County District Attorney P.O. Box 519 Red Bluff, CA 96080	San Jose City Attorney 151 W. Mission St. San Jose, CA 95110