

60-DAY NOTICE OF VIOLATION

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

DATE: June 27, 2016

To: St. Louis Pneumatic, Inc.; Prox-Tech, Inc.; Metabo Corp.; Home Depot USA, Inc.
California Attorney General's Office;
District Attorney's Office for 58 Counties; and
City Attorney's Office for Los Angeles, San Diego, San Jose and San Francisco.

From: Shefa LMV, Inc.

I. INTRODUCTION

We are a non-profit organization of the State of California acting in the interest of the general public. We seek to promote awareness of exposures to toxic chemicals in products sold in California and, if possible, to improve public health and safety by reducing the hazardous substances contained in such items. This Notice is provided to the parties listed above pursuant to California Health & Safety Code §25249.6, et seq. ("Proposition 65"). The violations alleged by this Notice consist of product exposures, routes of exposures, and types of harm that may potentially result from exposures to the toxic chemical ("listed chemical") identified below:

Product Exposure:	See Section VII, EXEMPLAR PRODUCTS
Listed Chemical:	Lead and lead compounds
Routes of Exposure:	Ingestion, Dermal, and Inhalation
Types of Harm:	Carcinogen, Causes Birth Defects and Other Reproductive Toxicity

II. NATURE OF ALLEGED VIOLATION (PRODUCT EXPOSURE)

The specific type(s) of product(s) causing consumer exposures in violation of Proposition 65, and which is the subject of this Notice, is listed under "Product Category/Type" in Section VII below. For purposes of this Notice, "consumer exposures" shall mean both exposures for individuals using the products personally, as well as individuals using the products in a professional capacity. All products within the type covered by this Notice shall be referred to hereinafter as the "products."

The sales of these products in California dating at least as far back as March 10, 2015 are subject to this Notice. As a result of the sales of these products, exposures to the listed chemical have been occurring without clear and responsible warnings as required by Proposition 65. Without proper warnings regarding the toxic effects of exposures to the listed chemical, resulting

from dermal, inhalation and ingestion exposure, California citizenry lack the information necessary to make informed decisions on whether and how to eliminate (or reduce) the risk of exposure to the toxic chemical from the reasonably foreseeable use of the products.

Through the act of acquiring and use of the products, citizens of California are exposed to the listed chemical in homes, workplaces and elsewhere throughout California where these products are installed. This is including, but not limited to, the use of the products in professional settings, such as the installation, maintenance, and replacement of the products. Specifically, in this matter, this Notice envisions several potential exposure routes with regard to the products:

- (1) The products are used to cut and/or grind materials, such as tiles, that contain the listed chemical.
- (2) When cutting materials, dust is produced and released.
- (3) When grinding materials, dust is produced and released.
- (4) This dust, containing the listed chemical, exposes individuals to the listed chemical.
- (5) Examples of exposure routes to the chemical, include, but are not limited to:
 - a. Handling the cut or ground materials;
 - b. Touching floor or counter surfaces covered in the ground or cut dust;
 - c. Touching hair or clothing or skin covered with the ground or cut dust.

Exposure may continue to occur for a significant period after the initial contact. These activities cause California citizens, including but not limited to, pregnant women, and women of child-bearing age to be exposed directly through dermal, and other migration pathways, including but not limited to, inhalation, incidental ingestion after one touch's the chemical and then touch's food or otherwise places her hands on or near her lips where her tongue can or will continue this pathway to ingestion exposure. People likely to be exposed are women, men, infants and children. These violations and threatened violations pertain to Proposition 65 chemicals that are listed by the State of California as carcinogens and as reproductive toxins.

III. CONTACT INFORMATION

Please direct all questions concerning this notice to my counsel's offices at the following address:

Daniel N. Greenbaum, Esq.
7120 Hayvenhurst Ave., Suite 320
Van Nuys CA 91406
Phone: (818) 809-2199
Fax: (424) 243-7689
Email: dgreenbaum@greenbaumlawfirm.com

IV. PROPOSITION 65 INFORMATION

For general information concerning the provisions of Proposition 65, please feel free to contact the Office of Environmental Health Hazard Assessment (“OEHHA”) in the Proposition 65 Implementation Office at (916) 445-6900. For the alleged Violator(s), please see the attached copy of “Proposition 65 in Plain Language” prepared by OEHHA.

V. RESOLUTION OF NOTICED CLAIMS

Based on the allegations set forth in this Notice, we intend to file a citizen enforcement lawsuit against the alleged Violator(s), unless such Violator enters into a binding written agreement to: (1) recall products already sold or undertake best efforts to ensure that the requisite health hazard warnings are provided to those whom have received such products; and (2) provide clear and reasonable warnings for products sold in the future, or reformulate such products to eliminate the lead exposures.

If the alleged Violator is interested in resolving this dispute without resorting to time-consuming and expensive litigation, please feel free to contact my counsel identified in Section III. It should be noted that neither my counsel nor we can: (1) finalize any settlement until after the 60-day Notice period elapses; nor (2) speak for the Attorney General or any District Attorney or City Attorney who received this Notice. Therefore, while reaching an agreement that will resolve my claims, such may not be approved by the Attorney General after referral to them, or by the Court as the last voice on settlements.

VI. ADDITIONAL INFORMATION

<u>Product</u>	<u>Retailer(s)</u>	<u>Manufacturer(s)/Distributor(s)</u>
Power Tools	Home Depot USA, Inc.	St. Louis Pneumatic, Inc. Prox-Tech, Inc. Metabo Corp.

Identified above are products, which contain the alleged chemicals at issue, and this reference is supportive of the material facts that are a part of our counsels Certificate of Merit that is attached hereto as being available for purchase or use in California that is within the category or type of offending product covered by this Notice. Based on publicly available information, the retailers, distributors and/or manufacturers of the example within the category or type of product are also provided below.

We believe and allege that the sale of the offending products also has occurred without the requisite Proposition 65 “clear and reasonable warnings” at one or more locations and/or via other means including, but not limited to, transactions made over-the-counter, business to

business, through the internet, and/or via catalog by the alleged Violator(s) and other distributors and retailers of the product.

VII. EXEMPLAR PRODUCTS

<u>Product Category/Type</u>	<u>Specific Product</u>	<u>UPC or SKU</u>	<u>Sold by</u>	<u>Manufacturer</u>	<u>Toxins</u>
Power Tool	Mini angle head die grinder	Model #: 83150	Home Depot	St. Louis Pneumatic	Lead
Power Tool	Long neck angle grinder	4006274385443	Home Depot	Prox-Tech, Inc.	Lead
Power Tool	W2000 7" angle grinder	4007430199829	Home Depot	Metabo Corp.	Lead

The specific example identified above is of the type of product that is the subject of this Notice. We are identifying it herein for all recipients' benefit to assist in investigation of, among other things, the magnitude of potential exposure to the listed chemical from other items within the product category/type listed in Section VII. It is important to note that this example does **not** represent an exhaustive or comprehensive identification of any, or all, specific products of the type listed under "Product Category/Type" in Section VII. Further, it is this organization's position that the alleged Violator(s) are obligated to continue to conduct in good faith an investigation into other specific products within the type or category described above that **may** have been manufactured, distributed, sold, shipped, stored (or otherwise within the alleged Violator(s)' custody or control) during the relevant period so as to ensure that the requisite toxic warnings are provided to California citizens prior to purchase.

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this case or action. My business address is:
7120 Hayvenhurst Ave., Suite 320, Van Nuys CA 91406

A True and Correct copy of the documents entitled 60 DAY NOTICE OF VIOLATION; CERTIFICATE OF MERIT; THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY will be served or was served in the manner stated below:

I. Interested Parties (Served via Certified Mail): On June 27, 2016, I served the following persons and/or entities at the last known addresses by placing a true and correct copy thereof in a sealed envelope in the United States Mail, postage prepaid, and addressed as follows:

St. Louis Pneumatic, Inc.	ATTN: CEO or President	1450 W. Lark, Fenton MO 63026
St. Louis Pneumatic, Inc.	ATTN: CEO or President	4894 N. Service Road, Saint Peters MO 63376
St. Louis Pneumatic, Inc.	ATTN: CEO or President	40 Boone Hills Drive, Saint Peters MO 63376
Prox-Tech, Inc.	ATTN: CEO or President	2555 Tate Blvd SE, Hickory NC 28602
Prox-Tech, Inc.	ATTN: CEO or President	110 3 rd Street NE, Hickory NC 28601
Metabo Corp.	ATTN: Martin Cross	1231 Wilson Drive, West Chester PA 19380
Metabo Corp.	ATTN: Compliance Dept.	1231 Wilson Drive, West Chester PA 19380
Home Depot USA, Inc.	Attn: CEO or President	2455 Paces Ferry Road, Atlanta GA 30339
CORPORATION SERVICE COMPANY	c/o Home Depot USA, Inc.	2710 Gateway Oaks Drive, Suite 150N, Sacramento CA 95833

II. California Attorney General (via website Portal): On June 27, 2016, I uploaded a true and correct copy thereof as a PDF file via the California Attorney General's website.

III. District and City Attorneys (via U.S. Mail): On June 27, 2016, I served the following persons and/or entities at the last known addresses by placing a true and correct copy thereof in a sealed envelope in the United States Mail, first class, postage prepaid, and addressed as follows

SEE ATTACHED PAGES FOR FULL SERVICE LIST

IV. District and City Attorneys (via email): On June 27, 2016, I served the following persons and/or entities at the last known electronic addresses via email. The transmission was reported as sent without error.

cfepd@yolocounty.org; sgrassini@contracosta.org; Prop65DA@co.monterey.ca.us; epu@da.sccgov.org;
CEPD@countyofnapa.org; jbarnes@sonoma-county.org; Prop65@co.tulare.ca.us;

I declare under penalty of perjury under the laws of the State of California and the United States of America that the foregoing is true and correct.

June 27, 2016

Date

Nathan Ford

Name



Signature

District Attorney
ALAMEDA COUNTY
1225 Fallon Street, Room 900
Oakland, CA 94612

District Attorney
ALPINE COUNTY
PO Box 248
Markleeville, CA 96120

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AMADOR COUNTY
708 Court Street, #202
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25 County Center Drive —
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891 Mountain Ranch Road
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346 5th Street, Suite. 101
Colusa, CA 95932

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450 H Street, Room 171
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CERTIFICATE OF MERIT

I, Daniel N. Greenbaum, hereby declare:

(1) This Certificate of Merit accompanies the attached sixty-day notice(s) in which it is alleged the parties identified in the notices have 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 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 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.

June 27, 2016

Date

Daniel N. Greenbaum

Name



Signature