# 60-DAY NOTICE OF VIOLATION

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

DATE: March 31, 2015

To: Eric Sills, President – Standard Motor Products, Inc.

California Attorney General's Office;

District Attorney's Office for 58 Counties; and

City Attorneys for San Francisco, San Diego, San Jose, Sacramento and Los Angeles

FROM: Russell Brimer

#### I. INTRODUCTION

My name is Russell Brimer. I am a citizen of the State of California acting in the interest of the general public. I seek to promote awareness of exposures to toxic chemicals in 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, notice is also being provided to the alleged violator, Standard Motor Products, Inc. (the "Violator"). The violations covered by this Notice consist of the product exposures, routes of exposure, and type of harm potentially resulting from exposure to the toxic chemical ("listed chemical") identified below, as follows:

Product Exposure: See Section VII. Exhibit A

Listed Chemical: Di(2-ethylhexyl)phthalate ("DEHP")

Routes of Exposure: Ingestion, Dermal

Types of Harm: Birth Defects and Other Reproductive Harm

### II. NATURE OF ALLEGED VIOLATION (PRODUCT EXPOSURE)

The specific type of product that is causing consumer and occupational exposures in violation of Proposition 65, and that is covered by this Notice, is listed under "Product Category/Type" in Exhibit A in Section VII below. All products within the category covered by this Notice 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, dating as far back as March 31, 2012. Without proper warnings regarding the toxic effects of exposures to the listed chemical resulting from contact with 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 the reasonably foreseeable use of the products.

California citizens, through the act of buying, acquiring or utilizing the products, are exposed to the listed chemical. 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 contact with the products stops. Women of childbearing age are exposed to the listed chemical through direct dermal contact when they, among other activities, handle, touch or otherwise use the products.

#### III. CONTACT INFORMATION

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

Russell Brimer c/o Josh Voorhees The Chanler Group Parker Plaza 2560 Ninth Street, Suite 214 Berkeley, CA 94710 Telephone: (510) 848-8880

#### 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's ("OEHHA") Proposition 65 Implementation Office at (916) 445-6900. For the Violator's reference, I have attached a copy of "Proposition 65: A Summary" which has been prepared by OEHHA.

#### V. RESOLUTION OF NOTICED CLAIMS

Based on the allegations set forth in this Notice, I intend to file a citizen enforcement lawsuit against the alleged Violator 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 who have received such products; (2) provide clear and reasonable warnings for products sold in the future or reformulate such products to eliminate the DEHP exposures; and (3) pay an appropriate civil penalty based on the factors enumerated in California Health & Safety Code § 25249.7(b). 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 above. It should be noted that neither my counsel nor I can: (1) finalize any settlement until after the 60-day notice period has expired; nor (2) speak for the Attorney General or any district or city attorney who received this Notice. Therefore, while reaching an agreement with me will resolve my claims, such agreement may not satisfy the public prosecutors.

#### VI. ADDITIONAL NOTICE INFORMATION

Identified below is a specific example of a product recently purchased and witnessed 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. I believe and allege that the sale of the offending products also has occurred without the requisite Proposition 65 "clear and reasonable warning" 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 a catalog by the Violator and other retailers and distributors of the manufacturer.

Product*	Retailer(s)	Manufacturer(s)/Distributor(s)
Standard Heavy Duty	C & H Motor Parts	Standard Motor Products, Inc.
Booster Cable Clamp, BP98R, UPC #0 91769 04260 8	Placer County, Northern California	

#### VII. EXHIBIT A

Product Category/Type	Such As*	Toxins
Vinyl/PVC Tool Grips	Standard Heavy Duty Booster Cable Clamp, BP98R, UPC #0 91769 04260 8	Di(2-ethylhexyl)phthalate

\*The specifically identified example of the type of product that is subject to this Notice is for the recipient's benefit to assist in its investigation of, among other things, the magnitude of potential exposures to the listed chemical from other items within the product category/type listed in Exhibit A. It is important to note that this example is not meant to be an exhaustive or comprehensive identification of each specific offending product of the type listed under "Product Category/Type" in Exhibit A. Further, it is this citizen's position that the alleged Violator is 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 notice recipient's custody or control) during the relevant period so as to ensure that the requisite toxic warnings were and are provided to California citizens prior to purchase.

## 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; my business address is Parker Plaza, 2560 Ninth Street, Suite 214, Berkeley, CA 94710.

On March 31, 2015, I served the following documents:

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

**PROPOSITION 65: A SUMMARY;** 

**CERTIFICATE OF MERIT; AND** 

CERTIFICATE OF MERIT ATTACHMENTS (SERVED ONLY ON THE ATTORNEY GENERAL)

on the entity listed below via First Class Certified Mail through the United States Postal Service by placing a true and correct copy in a sealed envelope, addressed to the entity listed below and providing such envelope to a United States Postal Service Representative:

Eric Sills, President Standard Motor Products, Inc. 37-18 Northern Boulevard Long Island City, NY 11101

as well as by providing copies of the above documents electronically uploaded to the public enforcers according to directions from their respective offices, and/or by placing a true and correct copy in a sealed envelope, addressed to each party listed below, and served as follows:

Electronically Uploaded to the Attorney	The Attorney General of the State of
General's website:	California;
By placing each envelope in a United	The District Attorney for Each of the 58
States Postal Service mailbox, postage	counties in California; and
prepaid:	
	The City Attorney for Los Angeles, San
	Diego, San Jose, San Francisco and
	Sacramento

A list of addresses for each of these recipients is attached.

Executed on March 31, 2015, at Berkeley, California.

Caroline Pak

## **CERTIFICATE OF MERIT**

Health and Safety Code Section 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 is the subject of this 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 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, including 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) the facts, studies, or other data reviewed by those persons).

Dated: March 31, 2015

Clifford A. Chanler

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## **SERVICE LIST**

The Honorable Nancy O'Malley Alameda County District Attorney 1225 Fallon Street, Room 900 Oakland, CA 94612

The Honorable Terese Drabec Alpine County District Attorney 270 Laramie Street, PO BOX 248 Markleeville, CA 96120

The Honorable Todd Riebe Amador County District Attorney 708 Court Street Jackson, CA 95642

The Honorable Michael Ramsey Butte County District Attorney 25 County Center Drive Oroville, CA 95965

The Honorable Barbara Yook Calaveras County District Attorney 891 Mountain Ranch Road San Andreas, CA 95249

The Honorable John Poyner Colusa County District Attorney 346 Fifth Street Colusa, CA 95932

The Honorable Mark Peterson Contra Costa County District Attorney 900 Ward Street Martinez, CA 94553

The Honorable Dale Trigg Del Norte County District Attorney 450 H Street, Room 171 Crescent City, CA 95531

The Honorable Vern Pierson El Dorado County District Attorney 515 Main Street Placerville, CA 95667

The Honorable Lisa Smittcamp Fresno County District Attorney 2220 Tulare Street, #1000 Fresno, CA 93721

The Honorable Dwayne Stewart Glenn County District Attorney P.O. Box 430 Willows, CA 95988

The Honorable Maggie Fleming Humboldt County District Attorney 825 5th Street, Fourth Floor Eureka, CA 95501

The Honorable Gilbert Otero Imperial County District Attorney 940 West Main Street, Suite 102 El Centro, CA 92243

The Honorable Thomas Hardy Inyo County District Attorney 168 North Edwards Street Independence, CA 93526

The Honorable Lisa Green Kern County District Attorney 1215 Truxtun Avenue Bakersfield, CA 93301

The Honorable Keith Fagundas Kings County District Attorney 1400 West Lacey Boulevard Hanford, CA 93230

The Honorable Donald Anderson Lake County District Attorney 255 North Forbes Street Lakeport, CA 95453 The Honorable Stacey Montgomery Lassen County District Attorney 220 South Lassen Street, Ste. 8 Susanville, CA 96130

The Honorable Jackie Lacey Los Angeles County District Attorney 210 West Temple Street, Suite 18000 Los Angeles, CA 90012

The Honorable David Linn Madera County District Attorney 209 West Yosemite Avenue Madera, CA 93637

The Honorable Edward Berberian Marin County District Attorney 3501 Civic Center Drive, Room 130 San Rafael, CA 94903

The Honorable Thomas Cooke Mariposa County District Attorney 5101 Jones Street, P.O. Box 730 Mariposa, CA 95338

The Honorable C. David Eyster Mendocino County District Attorney 100 North State Street, P.O. Box 1000 Ukiah, CA 95482

The Honorable Larry Morse II Merced County District Attorney 550 W. Main Street Merced, CA 95340

The Honorable Jordan Funk Modoc County District Attorney 204 S. Court Street, Suite 202 Alturas, CA 96101

The Honorable Tim Kendall Mono County District Attorney P.O. Box 617 Bridgeport, CA 93517

The Honorable Dean Flippo Monterey County District Attorney P.O. Box 1131 Salinas, CA 93902

The Honorable Gary Lieberstein Napa County District Attorney P.O. Box 720 Napa, CA 94559

The Honorable Clifford Newell Nevada County District Attorney 201 Commercial Street Nevada City, CA 95959

The Honorable Tony Rackauckas Orange County District Attorney 401 Civic Center Drive West Santa Ana, CA 92701

The Honorable R. Scott Owens Placer County District Attorney 10810 Justice Center Drive, Suite 240 Roseville, CA 95678

The Honorable David Hollister Plumas County District Attorney 520 Main Street, Room 404 Quincy, CA 95971

The Honorable Michael Hestrin Riverside County District Attorney 3960 Orange Street Riverside, CA 92501

The Honorable Anne Marie Schubert Sacramento County District Attorney 901 G Street Sacramento, CA 95814 The Honorable Candice Hooper San Benito County District Attorney 419 4th Street, Second Floor Hollister, CA 95203

The Honorable Michael Ramos San Bernardino County District Attorney 303 West 3rd Street, 6th Floor San Bernardino, CA 92415-0502

The Honorable Bonnie Dumanis San Diego County District Attorney 330 W. Broadway Street San Diego, CA 92101

The Honorable George Gascon San Francisco County District Attorney 850 Bryant Street, Room 322 San Francisco, CA 94103

The Honorable Tori Verber Salazar San Joaquin County District Attorney 222 East Weber Avenue, Room 202 Stockton, CA 95201

The Honorable Dan Dow San Luis Obispo County District Attorney 1035 Palm Street, 4th Floor San Luis Obispo, CA 93408

The Honorable Stephen Wagstaffe San Mateo County District Attorney 400 County Center, Third Floor Redwood City, CA 94063

The Honorable Joyce Dudley Santa Barbara County District Attorney 1112 Santa Barbara Street Santa Barbara, CA 93101

The Honorable Jeffrey Rosen Santa Clara County District Attorney 70 West Hedding Street, West Wing San Jose, CA 95110

The Honorable Jeff Rosell Santa Cruz County District Attorney 701 Ocean Street, Room 200 Santa Cruz, CA 95060

The Honorable Stephen Carlton Shasta County District Attorney 1355 West Street Redding, CA 96001

The Honorable Lawrence Allen Sierra County District Attorney 100 Courthouse Square Downieville, CA 95936

The Honorable James Kirk Andrus Siskiyou County District Attorney P.O. Box 986 Yreka, CA 96097

The Honorable Krishna Abrams Solano County District Attorney 675 Texas Street, Suite 4500 Fairfield, CA 94533

The Honorable Jill Ravitch Sonoma County District Attorney 600 Administration Drive, Room 212J Santa Rosa, CA 95403

The Honorable Birgit Fladager Stanislaus County District Attorney 832 12th Street, Suite 300 Modesto, CA 95354

The Honorable Amanda Hopper Sutter County District Attorney 463 Second Street, Suite 102 Yuba City, CA 95991 The Honorable Gregg Cohen Tehama County District Attorney 444 Oak Street, Room L Red Bluff, CA 96080

The Honorable Eric Heryford Trinity County District Attorney P.O. Box 310 Weaverville, CA 96093

The Honorable Tim Ward Tulare County District Attorney 221 South Mooney Boulevard, Rm 224 Visalia, CA 93291-4593

The Honorable Laura Krieg Tuolumne County District Attorney 423 North Washington Street Sonora, CA 95370

The Honorable Gregory Totten Ventura County District Attorney 800 South Victoria Avenue Ventura. CA 93009

The Honorable Jeff Reisig Yolo County District Attorney 301 Second Street Woodland, CA 95695

The Honorable Patrick McGrath Yuba County District Attorney 215 Fifth Street Marysville, CA 95901

The Honorable Mike Feuer Office of the City Attorney, Los Angeles 800 City Hall East 200 North Main Street Los Angeles, CA 90012

The Honorable James Sanchez Office of the City Attorney, Sacramento 915 I Street, 4th Floor Sacramento, CA 95814

The Honorable Jan Goldsmith Office of the City Attorney, San Diego 1200 Third Avenue, Suite 1620 San Diego, CA 92101

The Honorable Dennis Herrera Office of the City Attorney, San Francisco 1 Dr. Carlton B. Goodlett Place San Francisco, CA 94102

The Honorable Richard Doyle Office of the City Attorney, San Jose 200 East Santa Clara Street,16th Floor San Jose, CA 95113

Office of the California Attorney General Proposition 65 Enforcement Reporting ATTN: Prop 65 Coordinator 1515 Clay Street, Suite 2000 Oakland, CA 94612-0550