



CALIFORNIA CUPA FORUM

"An Association of Certified Unified Program Agencies"

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August 22, 2013

TO: ALL UNIFIED PROGRAM AGENCIES

FROM: BILL JONES, ENFORCEMENT ISSUE COORDINATOR^{SENT VIA EMAIL}

HOME DEPOT INJUNCTIVE PROVISIONS

This communique is to address the question of what an inspector should do months or years down the road from a statewide settlement when they observe additional or similar violations. One suggestion in discussions with statewide prosecutors was to summarize the injunctive provisions following a judgment and distribute the summary to all UPA's. This way UPA's would have easy access to a document that would include the injunctive provisions to compare with any future potential violations.

In addition, it is important that clear direction be provided on what to do if future violations occur and where this information should be sent. For those jurisdictions that have had active involvement by a local prosecutor, this is the point of contact to send subsequent non-compliance information. If your jurisdiction does not have active prosecutorial involvement, you are requested to provide the information to the California Attorney General's Office, ATTN: Deputy Attorney General Brett Morris, Phone: (510) 622-2176, brett.morris@doj.ca.gov with a copy to me.

What follows is a quick and dirty summary of the injunction provisions. For more detailed information, you are directed to the final court document referenced below.

HOME DEPOT'S INJUNCTIVE PROVISIONS (ref. Case No. BS376095, Permanent Injunction and Final Judgment; Order)

Home Depot shall comply with:

California Health and Safety Code, Division 20:

Chapter 6.5 Hazardous Waste Control, Sections 25100, et. seq.; and Chapter 6.95 Hazardous Materials Release Response Plans and Inventory, Sections 25500 et. seq.

California Business and Professions Code:

Division 7, Part 3, Chapter 1 (Section 17200)

California Labor Code:

Division 5: Part 1, 6, 7, and 11

California Vehicle Code:

Division 11, Chapter 12: Public Offenses
Division 12, Chapter 5: Other Equipment
Division 13, Chapter 5: Transporting Other Loads
Division 14.1: Transportation of Hazardous Materials
Division 14.7: Flammable and Combustible Liquids
Division 14.8: Safety Regulations

Local, State and Uniform Fire Codes

California Fire Code 8001.14.3.3: storage height of hazardous materials
California Fire Code 7902.5.10.2.4 (4): storage height of flammable and combustible liquids and in rack sprinkler coverage
California Fire Code 7902.5.10.2.4 (1): combustible commodities stored above flammable or combustible liquids
California Fire Code 8001.11.8: separation of incompatible materials
California Fire Code 8001.3.3: hazardous material inventory statement
California Fire Code 7902.5.7.1, 8001.14.2 and 8212.9: aggregate quantities of hazardous materials, flammable and combustible liquids, and liquefied petroleum gases
California Fire Code 8212.4: storage of portable containers of liquefied petroleum gas
California Fire Code 7902.5.10.2.4 (2): storage of flammable and combustible liquids on metal shelving

Additional Specific Injunctions:

3.1 Home Depot shall only engage in the legal transporations of hazardous waste, or transfer custody of hazardous waste for transport to hazardous waste transporters.

3.3 Certification of Document Retention: Annually for the duration of the Permanent Injunction, Home Depot shall submit a certification that, to the best of Home Depot's knowledge and belief, California governmental notices of violations and inspection reports (collectively "Inspections") relating to the violations alleged in the Complaint that are received by a covered Facility or the Store Support Center of Home Depot, and any associated responsive correspondence ("Responses"), have been retained by Home Depot. True and correct copies of such Inspections and Responses, and all attachments thereof, shall be provided on a quarterly basis to the San Joaquin County District Attorney's Office and to the California Attorney General's Office.

3.4 Hazardous Waste Training: Home Depot shall maintain and administer a program to provide training to such employees in California as are required to be trained in hazardous waste management procedures and shall maintain documentation of such training as provided under that program. Home Depot contends that as of the date of the entry of this Final Judgment, the Covered Facilites qualify as small quantity generators or conditionally exempt generators and that at the time of the entry of this Final Judgment training for large quantity generators is not required for the Covered Facilities.

3.5 Hazardous Materials Training: Home Depot shall maintain and administer a program to provide training to such employees in California as are required to be trained in hazardous materials handling procedures and shall maintain documentation of such training as provided under that program for the duration of this Permanent Injunction.

3.6 Hazardous Waste Transport Containers: Home Depot shall maintain and administer a corporate policy that requires hazardous waste transporters that transport hazardous waste from Covered

Facilities for off-site disposal to use Department of Transportation-approved containers.

3.7 Fire Code Program:

- a) Home Depot shall adopt and begin to administer this Fire Code Program at all Covered Facilities that are "Home Depot" branded retail stores.
- b) Home Depot may provide notice of this Final Judgment to any Certified Unified Program Agency ("CUPA") and local fire department in California at the time of execution of the Stipulation to the Entry of Final Judgment by the Parties, and may request that any agency provide comments or objections. If a local fire department pursues any enforcement action relating to violations of the fire codes alleged to have occurred prior to October 15, 2007 and November 30, 2007, as applicable, Home Depot may notify the relevant agency of this Stipulation to the Entry of Final Judgment.
- c) For the duration of this Permanent Injunction, Home Depot also shall annually submit a certification to the People that Home Depot administered for the duration of the previous year the Fire Code Program in the State of California at all Covered Facilities that are subject to the fire codes. As used in this paragraph, "Fire Code Program" shall mean a program that achieves equivalent compliance with the fire codes in all material respects. For the duration of the Permanent Injunction, at the close of each quarter of each year Home Depot shall provide in accordance with the notice provisions of Paragraph 5 a copy of the most current version of the programs administered pursuant to this paragraph.

If you have any questions, please feel free to call me at 323-890-4042 or email me at bill.jones@fire.lacounty.gov.

WJ:lc

c. Enforcement Steering Committee