

# CALIFORNIA CUPA FORUM

*"An Association of Certified Unified Program Agencies"*  
[www.calcupa.org](http://www.calcupa.org)

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January 18, 2020

To: All Unified Program Agencies

From: Darwin Cheng, Inspection & Enforcement Issue Coordinator **via EMAIL**

## **THE PEP BOYS MANNY MOE & JACK OF CALIFORNIA, A CALIFORNIA CORPORATION FINAL JUDGMENT AND PERMANENT INJUNCTION**

This is to summarize (stipulated) injunction provisions to the Final Judgment (dated September 29, 2019) for the Pep Boys statewide judgment. This communicate is to provide all Unified Program Agencies (UPA's) with injunction provisions to compare with any future potential violations. This is also to provide clear direction on what to do if future violations occur and where this information should be sent. For those jurisdictions that have 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 County of Alameda Deputy District Attorney, Kenneth Mifsud (510) 383-8600.

What follows is a summary of the injunction provisions. For more detailed information, you are directed to the final court document referenced below (numbered as in the Final Judgment).

PEOPLE V. THE PEP BOYS MANY MOE & JACK OF CALIFORNIA., A CALIFORNIA CORPORATION; FINAL JUDGMENT CASE NO. 19036417

### **4.3 Specific Injunctive Provisions**

Pursuant to Health and Safety Code sections 25181, 25515.6 and 25515.8, Civic Code section 1798.84, and Business and Professional Code section 17203, defendant is enjoined, restrained and prohibited from doing any of the following:

4.3.a. Disposing, or causing the disposal of, any hazardous waste at a point not authorized by law, as required by Health and Safety Code sections 25198 and 25198.2, including, without limitation, to any front-loader dumpster, trash compactor, dumpster, roll-off bin, drain, sink, or toilet at any of the Facilities, or onto the surface or subsurface or the ground at any unauthorized location in California, or at a landfill or transfer station in California not authorized to receive hazardous waste.

4.3.b. Allowing hazardous waste to remain at the Facilities, after causing its deposit, at a point not authorized, without immediately filing a report of the deposit with the California Department of Toxic Substances Control ("DTSC") and complying with. aily order by the DTSC, as required by Health and Safety Code sections 25189, subdivision (d) and 25189.2, subdivision (c).

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4.3.c. Transporting hazardous waste to, from and between the Facilities on vehicles by persons that do not hold a valid registration issued by DTSC, as required by Health and Safety Code section 25163.

4.3.d. Transporting, or causing to be transported to, from or between the Facilities, any hazardous waste to an unauthorized location in California, in violation of Health and Safety Code sections 25189.5 and 25163.

4.3.e. Failing to determine, at each Facility, whether each item of waste generated or otherwise located at the Facility as a result of a spill or container breakage or other means, or product returned by a customer to that Facility, is a waste, and if so, whether it is a "hazardous waste," as required by California Code of Regulations, title 22, section 66262.11.

4.3.f. Failing to segregate incompatible hazardous waste items at the Facilities, as required by California Code of Regulations, title 22, section 66265.177.

4.3.g. Failing to accumulate hazardous waste in a lined or compatible container at the Facilities, as required by California Code of Regulations, title 22, section 66265.172.

4.3.h. Failing to keep containers of hazardous waste closed and/or sealed at the Facilities, except when removing or adding hazardous waste, as required by California Code of Regulations, title 22, section 66265.173.

4.3.i. Failing to maintain adequate aisle space at the Facilities to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment in an emergency, as required by California Code of Regulations, title 22, section 66265.35.

4.3.j. Failing to conduct daily inspections of hazardous waste tank systems and maintain records at the Facilities, as required by California Code of Regulations, title 22, section 66265.195.

4.3.k. Failing to conduct daily tank inspections of discharge control equipment, monitoring equipment and waste level at the Facilities, as required by California Code of Regulations, title 22, section 66262.34, subdivision (d)(2) and Title 40 of the Code of Federal Regulations, section 262.16, subdivision (b)(3)(iii).

4.3.l. Failing to properly manage, identifying the date of accumulation and label containers of hazardous waste at the Facilities, as required by California Code of Regulations, title 22, section 66262.34.

4.3.m. Failing to include all required information in the hazardous waste tank system assessment documentation at the Facilities, as required by California Code of Regulations, title 22, section 66265.192, subdivision (k).

4.3.n. Failing to establish, implement, or submit to the responsible Certified Unified Program Agency, (as defined in Health and Safety Code sections 25123.7, subdivision (b) and 25404, subdivision (a)), a Hazardous Materials Business Plan for the Facilities, as required by Health and Safety Code sections 25505, 25507, and 25508, and California Code of Regulations, title 19, section 2650.

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4.3.o. Failing to annually complete and submit an accurate Hazardous Materials Business Plan for the Facilities to the Certified Unified Program Agency, as required by Health and Safety Code sections 25508 and 25508.2, and California Code of Regulations, title 19, section 2654.

4.3.p. Failing to complete and submit to the Certified Unified Program Agency, the Business Activities page and/or Business Owner/Operator Identification page for the Facilities, as required by Health and Safety Code section 25508 and California Code of Regulations, title 19, section 2652.

4.3.q. Failing to update and submit, for each Facility, the Hazardous Materials Business Plan to the Certified Unified Program Agency within thirty (30) days of a substantial change to any portion of the Hazardous Materials Business Plan, including inventory changes or facility information, as required by Health and Safety Code section 25508.1, subdivision (a-f) and California Code of Regulations, title 19, section 2654.

4.3.r. Failing to complete and submit, for each Facility, an Annotated Site Map to the Certified Unified Program Agency, as required by Health and Safety Code sections 25505, subdivision (a)(2), 25508.1, subdivision (f), and California Code of Regulations, title 19, section 2652, subdivision (a)(3).

4.3.s. Failing to have a Hazardous Materials Business Plan for the Facilities readily available to the personnel of the business or the responsible Certified Unified Program Agency, as required by Health and Safety Code section 25505, subdivision (c).

4.3.t. Failing to have a Contingency Plan for the Facilities which is designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water, as required by California Code of Regulations, section 66265.51, subdivision (a).

4.3.u. Failing to complete and submit a Hazardous Materials Inventory for the Facilities to the Certified Unified Program Agency, as required by Health and Safety Code sections 25505, 25507, and 25508 and California Code of Regulations, title 19, section 2654.

4.3.v. Failing to conduct weekly inspections of hazardous waste storage areas at each Facility, as required by California Code of Regulations, title 22, sections 66262.34 and 66265.174.

4.3.w. Storing hazardous waste onsite beyond ninety (90) days at any Facility which does not have a hazardous waste facilities permit from DTSC, as required by California Code of Regulations, title 22, section 66262.34, and Health and Safety Code section 25201, subdivision (a).

4.3.x. Storing hazardous waste onsite beyond one hundred eighty (180) days at Facilities which did not have a hazardous waste facilities permit from DTSC, as required by Health and Safety Code sections 25201, subdivision (a) and 25123.3,

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subdivision (h)(1) and California Code of Regulations, title 22, section 66262.34, and Title 40 of Code of Federal Regulations, section 262.16.

4.3.y. Failing to implement, maintain, and comply with an employee training program on hazardous materials at the Facilities, as required by Health and Safety Code section 25505, subdivision (a)(4), and California Code of Regulations, title 19, section 2659.

4.3.z. Failing to comply with employee training obligations pertaining to the handling of hazardous waste and emergency procedures at the Facilities, as required by California Code of Regulations, title 22, section 66262.34, subdivision (d) and Title 40 of the Code of Federal Regulations section 262.16, subdivision (b)(9)(iii).

4.3.aa. Failing to maintain hazardous waste management training documents and records at the Facilities, as required by California Code of Regulations, title 22, section 66265.16, subdivisions (d) and (e).

4.3.bb. Failing to prepare and maintain copies of uniform hazardous waste manifests for three(3) years at the Facilities, as required by California Code of Regulations, title 22, section 66262.40, *et seq.*, or failing to retain documentation demonstrating the applicability of claimed exemptions. As used herein “manifest” means a shipping document originated and signed by a generator of hazardous waste that contains oil of the information required by law and that complies with all applicable federal and state regulations, and includes, but is not limited to, uniform hazardous waste manifests and receipts.

4.3.cc. Failing to have manifests signed by the Treatment, Storage, and Disposal Facility available for inspection at the Facilities, as required by California Code of Regulations, title 22, section 66262.40 and Health and Safety Code section 25185, subdivision (a)(4).

4.3.dd. Treating, storing, disposing of, transporting, or offering for transportation at the Facilities, any hazardous waste without having received and used a proper identification number from the U.S. Environmental Protection Agency or the DTSC for the originating facility, as required by California Code of Regulations, title 22, section 66262.12, subdivision (a).

4.3.ee. Failing to properly empty a container, manage a non-empty container, or an inner liner removed from a container, which previously held a hazardous material, including hazardous waste, at the Facilities, as required by California Code of Regulations, title 22, section 66261.7.

4.3.ff. Failing to maintain at the Facilities, a copy of the Contingency Plan and all its revisions or failing to submit a copy to the local emergency agencies that may be called upon to provide emergency services, as required by California Code of Regulations, title 22, section 66265.53.

4.3.gg. Failing to properly manage, mark, and store universal waste at the Facilities, as required by Health and Safety Code section 25201.16 and California Code of Regulations, title 22, sections 66273.33 - 66273.36.

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4.3.hh. Failing to submit a written response within thirty-five (35) days of receiving an official notice of inspection citing a violation of a hazardous waste law or regulation at the Facilities, as required by Health and Safety Code sections 25185, subdivision (c)(3) and 25187.8, subdivision (b).

4.3.ii. Failing to notify the property owner in writing, for Facilities located on leased or rented real property, that the Facility is subject to and in compliance with Hazardous Materials Business Plan requirements, as required by Health and Safety Code section 25505.1.

4.3.jj. Failing to maintain and operate the Facilities in a manner to minimize the possibility of a fire, explosion, or any unplanned release of hazardous waste to air, soil, or surface water that could threaten human health or the environment, as required by California Code of Regulations, title 22, section 66265.31 and Title 40 of Code of Federal Regulations, section 265.31.

4.3.kk. Failing to submit an Exception Report to DTSC after the generator did not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility which was to receive the hazardous waste within forty-five (45) days of the date the waste was accepted by the initial transporter at the Facilities, as required by California Code of Regulations, title 22, section 66262.42.

4.3.ll. Failing to properly manage, mark and store containers of drained used oil or fuel filters at the Facilities, as required by Health and Safety Code section 25250.22 and California Code of Regulations, title 22, section 66266.130, subdivision (c)(3).

4.3.mm. Failing to prepare a hazardous waste manifest and, if necessary, a continuation sheet, before the transport of hazardous waste off-site for transfer, treatment, storage or disposal at the Facilities, as required by California Code of Regulations, title 22, section 66262.20.

4.3.nn. Failing to submit a legible copy of each hazardous waste manifest to DTSC within thirty (30) days of each shipment at the Facilities of hazardous waste off-site or into California, as required by California Code of Regulations, title 22, section 66262.23, subdivision (a)(4).

4.3.oo. Failing to accumulate hazardous waste in a container or tank at the Facilities, as required by California Code of Regulations, title 22, section 66262.34, subdivision (d)(2) and Title 40 of the Code of Federal Regulations, section 262.16.

4.3.pp. Failing to equip the Facilities with an internal communications or alarm system, a device such as a telephone or hand-held two-way radio, portable fire extinguishers, fire control equipment, spill control equipment, decontamination equipment, and water at adequate volume and pressure, as required by California Code of Regulations, title 22, section 66262.34, subdivision (d)(2) and Title 40 of the Code of Federal Regulations, section 265.32.

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4.3.qq. Failing to take all reasonable steps at the Facilities to dispose, or arrange for the disposal, of customer records within its custody or control containing personal information, as required by Civic Code section 1798.81.

If you have any questions, please contact Darwin Cheng at (714) 433-6471, or email at [dcheng@ochca.com](mailto:dcheng@ochca.com).