

## **Products Liability Law Daily Wrap Up, TOP STORY—CONSENT ORDER—NHTSA imposes \$1M civil penalty on Harbor Freight Tools for Safety Act violations (Dec. 9, 2015)**

By John Dumoulin

Equipment importer Harbor Freight Tools, Inc., is subject to a \$1 million civil penalty under a consent order with the National Highway Traffic Safety Administration (NHTSA) for failing to issue a timely recall of more than 800,000 after-market trailer light kits that did not comply with federal motor vehicle safety standards, according to an agency press release. The company will pay \$400,000 now and will owe an additional \$600,000 if it fails to perform its obligations under the consent order or under the Motor Vehicle Safety Act (Safety Act) (*NHTSA Press Release, No. 50-15*, December 9, 2015).

**Background.** In October 2014, Harbor Freight Tools acknowledged to NHTSA that certain light kits it had imported and sold did not include rear side-marker lamps to improve night visibility, as required by federal motor vehicle safety standards. According to NHTSA's release, the Safety Act requires companies to issue a recall within five days of discovering a safety defect or noncompliance with federal safety standards, but Harbor Freight Tools did not indicate a willingness to issue a recall until December 16, 2014, and did not file notice of the recall until February 26, 2015.

In addition, NHTSA said Harbor Freight Tools notified owners of the recall 21 days later than required under the agency's regulations and filed its first quarterly report on recall completion 18 days late.

**Consent order.** Under the [consent order](#), Harbor Freight Tools agreed to the civil penalty and also acknowledged that it violated the Safety Act by failing to issue a recall within five days after it knew or should have known that a noncompliance existed in equipment it imported. The company also admitted violating the Safety Act by failing to notify owners in a timely manner and failing to file quarterly recall completion rates in a timely manner.

The consent order requires the company to retain a third-party consultant with expertise in motor vehicle safety and Safety Act requirements to help it develop a compliance program; to provide compliance test reports to NHTSA, as requested by the agency; and to authorize NHTSA to communicate directly with third-party testing laboratories designated by the company that will conduct compliance tests on motor vehicle equipment the company imports, sells, or offers for sale during the term of the consent order.

The consent order is dated December 8, 2015. The term of the consent order and the performance obligations of Harbor Freight Tools is generally two years from the date of the order's execution.

Companies: Harbor Freight Tools, Inc.

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