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FRESNO COUNTY SUPERIOR COURT

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7/11/2016

FRESNO COUNTY SUPERIOR COURT

By: S. Garcia, Deputy

Exempt from Fees Gov. Code 6103

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF FRESNO

PEOPLE OF THE STATE OF CALIFORNIA,  
ex rel. Barbara A. Lee, Director, California  
Department of Toxic Substances Control

Plaintiff,

v.

ARDAGH GLASS, INC., a Delaware  
Corporation

Defendant.

Case No. 16CECG02174

~~PROPOSED~~ FINAL CONSENT  
JUDGMENT AND PERMANENT  
INJUNCTION

(Code of Civil Procedure § 664.6)

Date: ,2016

Time:

Dept:

Judge: MARK W SNAUFFER

Trial Date: None set

Action Filed: JULY 6 , 2016

Plaintiff the People of the State of California, ex rel. Barbara A. Lee, Director, California Department of Toxic Substances Control ("DTSC") and Defendant Ardagh Glass, Inc. ("AGI"), collectively the "Parties," having consented to the entry of this Final Consent Judgment and Permanent Injunction ("Final Judgment") prior to the taking any proof and without a trial or adjudication of any fact or law herein, and The Court having considered the Complaint for Civil Penalties and Injunctive Relief ("Complaint"), the Stipulation for Entry of Final Consent Judgment and Permanent Injunction (the "Stipulation"), and good cause appearing therefore,

1 IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows: settle this matter  
2 without further litigation on the terms set forth below.

3 **1. JURISDICTION AND VENUE**

4 Jurisdiction exists over this matter pursuant to Health and Safety Code sections  
5 25181, 25189, and 25189.2 and venue in this Court is proper pursuant to the Parties' Stipulation.

6 **2. DEFINITIONS**

7 Except where otherwise expressly defined herein, all terms in this Final Judgment shall be  
8 interpreted consistent with the Hazardous Waste Control Law, Health and Safety Code §§ 25100  
9 et seq. and its implementing regulations, Cal. Code Regs., tit. 22, division 4.5, sections 66260.1 et  
10 seq. ("the HWCL"). The following terms used in this Final Judgment shall have the meaning(s)  
11 set forth below:

12 a. The "FACILITY" shall mean the glass bottle manufacturing facility located at 24441  
13 Avenue 12, Madera, California. The FACILITY is a HAZARDOUS WASTE facility as defined  
14 in Health and Safety Code section 25117.1.

15 b. "HAZARDOUS," as used herein, shall have the same meaning as the term is used in  
16 California Code of Regulations, title 22, section 66261.3 and sections 66261.20 through  
17 66261.24.

18 c. "HAZARDOUS WASTE," as used herein, shall have the definition as provided for in  
19 Health and Safety Code sections 25117.<sup>1</sup>

20 d. "HAZARDOUS WASTE MANAGEMENT," "MANAGE," and "MANAGEMENT" as  
21 used herein, shall have the definition as provided for in Health and Safety Code section 25117.2.

22 e. "WASTE," as used herein, shall have the definition as provided for in Health and  
23 Safety Code section 25124. The plural of WASTE is WASTES.

24 **3. CIVIL PENALTIES**

25 AGI is liable to DTSC for a total of three million five hundred thousand dollars  
26 (\$3,500,000.00) in civil penalties as set forth herein.

27 <sup>1</sup> For purposes of this Final Judgment, soda ash that is not WASTE, and is used as an  
28 ingredient in the FACILITY's glass manufacturing process, is not HAZARDOUS WASTE.

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**a. SETTLEMENT PAYMENT**

Within forty-five (45) calendar days of entry of this Final Judgment in this matter, AGI shall pay to DTSC a total sum of three million five hundred thousand dollars (\$3,500,000.00) as the Settlement Payment. This payment shall be made by cashier's check or electronic fund transfer. If by check, the check shall be made payable to "the Department of Toxic Substances Control," and mailed to:

Cashier  
Accounting Office  
Department of Toxic Substances Control  
P.O. Box 806  
Sacramento, CA 95812-0806

A copy of the check shall be sent to:

Denise Tsuji, Branch Chief  
Enforcement and Emergency Response Division  
Hazardous Waste Management Program  
Department of Toxic Substances Control  
8800 Cal Center Drive, MS R1  
Sacramento, CA 95826-3200

Rose B. Fua  
Deputy Attorney General  
Office of the Attorney General  
1515 Clay Street, 20th Floor  
Oakland, CA 94612-0550

The check for the Settlement Payment shall bear the name of this case and court number.

**b. LATE PAYMENTS, POST JUDGMENT INTEREST and ENFORCEMENT of JUDGMENT COSTS**

AGI shall pay a late payment of \$10,000 per day for each day the payment is late. In addition, AGI shall pay DTSC post-judgment interest as provided in Code of Civil Procedure section 685.010 (10%) from the date of default. Further, AGI is obligated to pay costs incurred by DTSC in enforcing the money judgment against AGI, in this matter, including, but not limited to reasonable attorney's fees.

1           **GENERAL INJUNCTIVE PROVISIONS**

2           4.1. AGI, shall be, and is permanently enjoined as follows:

3           Pursuant to the provisions of the Health and Safety Code sections 25181 and 25184, AGI  
4 shall comply with the HWCL at, and in connection with, the operations of the FACILITY.  
5 Failure to comply with the specific injunctive provisions that follow may subject AGI to the  
6 enforcement provisions set forth below.

7           **SPECIFIC INJUNCTIVE PROVISIONS**

8           4.2 AGI shall not dispose of HAZARDOUS WASTE except at an authorized point as  
9 provided pursuant to Health and Safety Code sections 25201 and 25189.5(a). For purposes of this  
10 Final Judgment, Electrostatic Precipitator Dust ("EP Dust") is HAZARDOUS WASTE under  
11 California law.

12           4.3 AGI shall identify all WASTES as defined in Health and Safety Code section 25124  
13 generated, stored, treated, and/or otherwise MANAGED at the FACILITY and shall determine if  
14 the WASTES are HAZARDOUS pursuant to California Code of Regulations, title 22, sections  
15 66260.200 and 66262.11. AGI shall identify in writing and keep current a list of all  
16 HAZARDOUS WASTES generated, stored, treated, and/or otherwise MANAGED at the  
17 FACILITY. AGI shall maintain a copy of the HAZARDOUS WASTE list required herein at the  
18 FACILITY and shall make it available upon request by DTSC and/or the Madera County  
19 Environmental Health Department, Certified Unified Program Agency ("Madera County  
20 CUPA").

21           4.4 AGI shall determine if the HAZARDOUS WASTES generated, stored, treated,  
22 and/or otherwise managed at the FACILITY meet the definition of a restricted WASTE under  
23 California Code of Regulations, title 22, section 66268.29 or prohibited WASTE under section  
24 66268.32. If HAZARDOUS WASTE generated, stored, treated, and/or otherwise MANAGED at  
25 the FACILITY does not meet the applicable treatment standards set forth in article 11 of chapter  
26 18: Land Disposal Restrictions (LDR), of title 22 (California Code of Regulations, title 22,  
27 section 66268.105 through 66268.114), AGI shall comply with all testing, tracking and  
28 notification requirements specified in California Code of Regulations, title 22, sections 66268.7

1 and 66268.9, as applicable. AGI shall maintain a copy of all LDR testing, tracking and  
2 notification records herein at the FACILITY and shall make such records available upon request  
3 by DTSC and/or the Madera County CUPA.

4 4.5 AGI shall (a) lawfully and timely dispose of all accumulated HAZARDOUS  
5 WASTE, from the FACILITY within ninety (90) calendar days of its accumulation start date or  
6 as otherwise permitted by California Code of Regulations, title 22, section 66262.34; and (b)  
7 timely cause to be prepared, and submit to DTSC, a HAZARDOUS WASTE manifest for such  
8 HAZARDOUS WASTE that is transported, or submitted for transportation, for offsite handling,  
9 treatment, storage, disposal, or any combination thereof, as provided by Health and Safety Code  
10 section 25160(b)(3) and California Code of Regulations, title 22, section 66262.23, and timely  
11 notify DTSC of the treatment, storage, or disposal facility's failure to return an executed manifest.  
12 AGI shall clearly identify EP Dust by its Waste Profile ID number and the words "EP Dust" on  
13 any HAZARDOUS WASTE manifest used for the transfer or other disposition of EP Dust.

14 4.6 AGI shall clearly mark each container of HAZARDOUS WASTE with the initial date  
15 on which accumulation begins and a label with the words "HAZARDOUS WASTE," the  
16 composition and physical state of the WASTE, the HAZARDOUS properties, and the name and  
17 address of the generator as required by California Code of Regulations, title 22, section 66262.34.

18 4.7 AGI shall conduct weekly inspections of all areas of the FACILITY where  
19 HAZARDOUS WASTE is generated or accumulated. AGI shall conduct inspections of all roll-  
20 off containers at the FACILITY, the contents of which are destined for municipal solid waste  
21 (garbage) landfills, for improper MANAGEMENT of HAZARDOUS WASTE. AGI shall  
22 conduct these inspections on a weekly basis and more frequently as necessary to ensure that all  
23 FACILITY roll-off containers are inspected before the contents from those containers are  
24 removed. AGI shall maintain a written log on-site of the inspections as part of the FACILITY'S  
25 operating record consistent with California Code of Regulations, tit. 22, sections 66265.15 and  
26 66265.73. The log shall be made available to DTSC and Madera County CUPA. The  
27 inspections shall also ensure that HAZARDOUS WASTE at the FACILITY is MANAGED in  
28 accordance with the HWCL, including, but not limited to, California Code of Regulations, title

1 22, sections 66265.31 66262.34, 66273.35, 66265.73, 66265.171, 66265.172, 66265.173,  
2 66265.174, 66265.176, and 66265.177. If HAZARDOUS WASTE spills and/or releases are  
3 discovered at the FACILITY, AGI shall take appropriate action consistent with the HWCL.

4 4.8 Prior to using any tank for the MANAGEMENT of HAZARDOUS WASTE, AGI  
5 shall conduct and maintain a tank assessment for each tank and tank system used at the  
6 FACILITY to accumulate, store, transfer, treat, and/or otherwise MANAGE HAZARDOUS  
7 WASTE, including, but not limited to, each used oil tank and the EP Dust storage tank (a.k.a. "EP  
8 Dust silo"). Each tank assessment shall be conducted by an independent, qualified, professional  
9 engineer, registered in California, in accordance with California Code of Regulations, title 22,  
10 sections 66265.191 and 66265.192. AGI shall maintain a copy at the FACILITY and shall also  
11 make it available upon request by DTSC and the Madera County CUPA. For any closed tank at  
12 the FACILITY, AGI shall submit a certificate to the Madera County CUPA certifying that the  
13 closed tank has been properly clean closed, as required by California Code of Regulations, title  
14 22, sections 67383.3 and 66265.197.

15 4.9 AGI shall provide adequate secondary containment assessment for each tank and each  
16 tank system used at the FACILITY to store, treat, and/or otherwise MANAGE HAZARDOUS  
17 WASTE, including, but not limited to, used oil tank and EP Dust silo. AGI shall provide and  
18 maintain adequate secondary containment for each tank and tank system as required by law. The  
19 secondary containment assessment shall be certified by an independent, qualified, professional  
20 engineer registered in California, in compliance with California Code of Regulations, title 22,  
21 section 66265.193.

22 4.10 AGI shall (i) prepare and implement a written daily tank inspection plan for each tank  
23 and tank system, including, but not limited to each used oil tank and the EP Dust silo used at the  
24 FACILITY to accumulate, store, transfer, treat, and/or otherwise MANAGE HAZARDOUS  
25 WASTE as required by California Code of Regulations, title 22, section 66265.195, subdivisions  
26 (a) and (c), and (ii) shall maintain an accurate log of the daily inspections conducted, including  
27 corrective actions taken. AGI shall make the written daily inspection plan and log of daily  
28 inspections available upon request by DTSC and the Madera County CUPA.

1           4.11 AGI shall maintain and operate the FACILITY to minimize the possibility of  
2 unplanned, sudden or non-sudden release of HAZARDOUS WASTE or HAZARDOUS WASTE  
3 constituents at the FACILITY as required by California Code of Regulations, title 22, section  
4 66265.31, including, but not limited to: scrubber dust on the floor of the scrubber room and  
5 outside walkway; EP Dust on the floor and walls of the EP room, the outside walkway leading  
6 to/from the EP room, the EP silo; iron chromite on the floor and walkways; and soda ash on the  
7 ground around the railcar transfer area outside the building as required by California Code of  
8 Regulations, title 22, section 66265.31.

9           4.12 AGI shall comply with the employee training requirements as mandated by California  
10 Code of Regulations, title 22, section 66265.16, pertaining to the MANAGEMENT of  
11 HAZARDOUS WASTE, including, but not limited to, the training of employees, contractors and  
12 all managers responsible for FACILITY personnel that may MANAGE or otherwise come in  
13 contact with HAZARDOUS WASTE in the scope of their work duties. As part of the training  
14 required by this paragraph, AGI shall train all FACILITY employees and contractors not to  
15 dispose of any HAZARDOUS WASTE into any non-HAZARDOUS WASTE containers or roll-  
16 off containers, the contents of which are destined for municipal solid waste (garbage) landfills.  
17 AGI shall maintain training records for current employees and contractors, until closure of the  
18 FACILITY and training records for former employees for at least three (3) years from the date the  
19 employee last worked at the FACILITY.

20           4.13 AGI shall not treat HAZARDOUS WASTE, except as authorized by the HWCL. In  
21 addition, AGI shall not treat EP Dust unless AGI (i) establishes that it meets the recyclable  
22 materials exemptions or exclusions contained in Health and Safety Code section 25143.2 and that  
23 AGI meets the conditions of such exemption(s) or exclusion(s) during the entire period of the  
24 claim of recycling or (ii) obtains authorization for a grant of conditional authorization or  
25 conditional exemption from DTSC as required by Health and Safety Code section 25201.

26           4.14 If AGI meets the requirements of Health and Safety Code section 25143.2, AGI shall  
27 comply with Health and Safety Code section 25143.10, unless AGI can demonstrate to DTSC that  
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1 section 25143.10 is not applicable. AGI shall, submit a notification to DTSC, and the Madera  
2 County CUPA as required pursuant to Health and Safety Code section 25143.10.

3 4.15 For a period of five (5) years after the entry of this Final Judgment, AGI shall employ  
4 and maintain a corporate officer or employee knowledgeable in the California environmental laws  
5 that are the subject of the Stipulation and this Final Judgment, as an "Environmental Associate."  
6 The Environmental Associate's responsibility shall be to manage AGI's compliance with the  
7 injunctive terms in this Final Judgment. The duties of the Environmental Associate shall include  
8 collecting and maintaining copies of all written advisements of violation, including a Notice or  
9 Summary of Violation ("NOVs" and "SOVs") and inspection reports, issued or performed by the  
10 Madera County CUPA, relating to the FACILITY for a period of five (5) years and to undertake  
11 good faith efforts to assess AGI's compliance with applicable laws and regulations, to advise  
12 AGI's personnel on compliance with all applicable laws and regulations, and to correct any noted  
13 deficiencies or violations. Alternatively, AGI may retain a third-party contractor to perform all or  
14 part of the responsibilities set forth in this Paragraph, in lieu of having such responsibilities  
15 performed by a corporate officer or employee of AGI. If AGI elects to retain a third-party  
16 contractor to perform all or part of the responsibilities set forth in this Paragraph, AGI shall  
17 remain responsible for the actions of said contractor and shall not otherwise be relieved of the  
18 requirements set forth in the Final Judgment.

19 Beginning one year after the entry of this Final Judgment, and continuing for five (5) years  
20 from the entry of this Final Judgment, AGI's Environmental Associate or retained third party  
21 contractor(s) shall submit to DTSC, an annual status report (in the form of the template attached  
22 hereto as Exhibit "A") describing AGI's program for the FACILITY's compliance with the terms  
23 of the Final Judgment and the implementation of such compliance program, the occurrence of a  
24 reportable event or reportable events as defined in Health and Safety Code section 25508.1, NOV  
25 or SOV issued to AGI for the FACILITY, any actions taken in response to such NOVs/SOVs,  
26 and any penalties paid by AGI with respect to such NOVs/SOVs. Each such annual report shall  
27 be signed by AGI's Environmental Associate, or other management representative, under penalty  
28 of perjury.

1           4.16 Within forty-five (45) calendar days of the entry of this Final Judgment, AGI shall  
2 select and retain the services of an independent third-party auditor who is qualified to conduct  
3 HAZARDOUS WASTE audits to determine compliance with the HWCL and shall be either a  
4 Registered Environmental Assessor or Professional Engineer, licensed in California, and  
5 knowledgeable and experienced in environmental regulations, including the HWCL ("Auditor").  
6 Prior to selecting the auditor, AGI shall provide the name and curriculum vitae or otherwise  
7 present the qualifications of the proposed auditor/firm to DTSC.

8           The Auditor will use the "Hazardous Waste Generator Inspection Report," attached hereto  
9 as Exhibit "B," as guidance for a HAZARDOUS WASTE audit protocol that will be used by the  
10 Auditor to determine whether AGI is meeting the requirements of this Final Judgment. In  
11 addition to any other audit objectives deemed appropriate by AGI, the environmental compliance  
12 audits shall evaluate AGI's compliance with the HWCL and the requirements of this Final  
13 Judgment. The HAZARDOUS WASTE compliance audits shall also evaluate the  
14 implementation and effectiveness of AGI's HAZARDOUS WASTE compliance program  
15 intended to maintain compliance with the HWCL.

16           The Auditor shall conduct three (3) HAZARDOUS WASTE compliance audits of the  
17 FACILITY, each at eighteen-month intervals. The first will be eighteen (18) months after entry  
18 of this Final Judgment, the second will be thirty-six (36) months after entry of this Final  
19 Judgment, and the third will be fifty-four (54) months after entry of this Final Judgment. For  
20 each audit, the Auditor shall also prepare and submit a narrative HAZARDOUS WASTE audit  
21 report to AGI, with a copy to DTSC, within sixty (60) calendar days after each of the three audit  
22 deadlines stated in this Paragraph. The HAZARDOUS WASTE audit reports referenced above  
23 shall include, but not be limited to, a complete description and discussion of all audit objectives,  
24 scope, and criteria, audit activities, audit findings and audit conclusions, recommendations and  
25 shall identify and discuss all audit evidence considered or relied upon to support the audit  
26 conclusions. The HAZARDOUS WASTE audit reports shall also contain a brief description of  
27 any written advisements or violation, including formal Notices of Violation and inspection reports  
28 directed to AGI by any local, state or federal agency that identifies any violation of any

1 environmental protection law relating to the MANAGEMENT of any HAZARDOUS material or  
2 WASTE. Such reports shall also include, but not be limited to, a brief description of the  
3 disposition of any such noted violations including whether AGI paid any fines, costs or other  
4 payments and what corrective measures, if any, were taken by AGI. Within 30 days after receipt  
5 by DTSC of each HAZARDOUS WASTE audit report, AGI shall provide DTSC with a plan and  
6 schedule to correct any deficiencies raised in the HAZARDOUS WASTE audit reports that  
7 remain uncorrected, and also identify the corrective action taken for deficiencies already  
8 corrected. The requirement to provide DTSC a plan of correction shall not be construed as a  
9 "cure period" nor to relieve AGI from the requirement to promptly correct any deficiency or  
10 violation as required by the HWCL.

11 The Parties agree that the HAZARDOUS WASTE compliance audits and corresponding  
12 audit reports are not binding on DTSC. DTSC in no way delegates or waives its enforcement  
13 authority. Furthermore, DTSC's action or inaction shall neither impair nor waive DTSC's  
14 authority to enforce the HWCL or this Final Judgment.

15 **5. ENFORCEMENT OF CONSENT JUDGMENT**

16 a. The parties have the right to enforce this Final Judgment as provided herein and  
17 pursuant to applicable law.

18 b. Before pursuing any legal action in court relating to the terms of this Final Judgment,  
19 the Parties shall meet and confer in a good faith attempt to resolve the issue(s) without judicial  
20 intervention. To ensure that the meet and confer process is as productive as possible, the Parties  
21 will identify in writing, at least 5 (five) business days in advance of the meet and confer, as  
22 specifically as the available information allows, the grounds for any motion relating to the Final  
23 Judgment, and the specific relief, if any, sought by the Parties. This "meet and confer" procedure  
24 shall not apply to any emergency relief that DTSC may seek, in its sole discretion, or to any  
25 separate enforcement action.

26 c. The Parties reserve all rights to oppose any motion brought by the other Party  
27 pursuant to this Final Judgment.

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1 d. Nothing in the forgoing is intended to, nor shall be construed to, restrict DTSC's  
2 authority to pursue a new action under the HWCL against AGI and to seek injunctive relief and  
3 penalties, except as provided below in section 7, "Matters Covered and Reserved Claims".

4 **6. EFFECT OF CONSENT JUDGMENT**

5 Other than "Covered Matters" as defined in Paragraph 7.a below, nothing herein is intended,  
6 nor shall it be construed, to preclude DTSC, or any state, county, or local agency, department,  
7 board, or entity from exercising its authority under any law, statute, or regulation.

8 **7. MATTERS COVERED AND RESERVED CLAIMS**

9 a. This Final Judgment is a final and binding resolution and settlement of the violations  
10 specifically alleged in the inspection reports dated May 12, 2010 and April 6, 2012 (collectively  
11 referred to as "Inspection Reports"), DTSC's Summaries of Violations dated March 22, 2010 and  
12 May 4, 2011 ("Summaries"), correspondence from DTSC to AGI dated August 13, 2010, January 5,  
13 2011, and April 5, 2012 ("Correspondence"), and causes of action alleged by DTSC against AGI in  
14 the Complaint. The matters described in the previous sentence are "Covered Matters."

15 b. DTSC reserves the right to pursue any claim, violation, or cause of action that is not a  
16 Covered Matter ("Reserved Claims").

17 Any violations that are not specifically alleged in the Inspection Reports, the Summaries,  
18 the Correspondence or causes of action that are not specifically alleged in the Complaint against  
19 AGI, are Reserved Claims and are not resolved, settled, or covered by the Stipulation and Final  
20 Judgment, including, but not limited to, violations, if any, that occurred after March 31, 2015.

21 c. Notwithstanding any other provision in the Stipulation and this Final Judgment,  
22 Reserved Claims also include, and are not limited to, any claims or causes of action for: a)  
23 violations under Health & Safety Code Sections 25214.11 et seq.; and b) cost recovery or  
24 performance of response action, concerning or arising out of past or future releases, spills, leaks,  
25 discharges, or disposal of HAZARDOUS materials, HAZARDOUS WASTES, and/or  
26 HAZARDOUS substances. In addition, the parties agree that the Corrective Action Consent  
27 Agreement, Docket HWCA P1-99/00-008, as it may be amended, is a separate matter concerning  
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1 the FACILITY and will be enforced through that agreement (and not the Stipulation or this Final  
2 Judgment), or as otherwise allowed by law.

3 d. In any subsequent action that may be brought in the name of DTSC based on any  
4 Reserved Claims, AGI agrees that it will not assert that the failure to pursue the Reserved Claims  
5 as part of this action constitutes claim-splitting or laches or is otherwise inequitable because of  
6 this asserted failure. This Paragraph does not bar AGI from asserting any statute of limitations  
7 that may be applicable to any Reserved Claims or any other defense.

8 e. AGI covenants not to pursue any civil or administrative claims against DTSC or  
9 against any governmental unit of the State of California, any counties or municipalities in the  
10 State of California, or against their officers, employees, representatives, agents, or attorneys for  
11 actions taken against AGI arising out of or related to Covered Matters.

12 **8. NOTICE**

13 All submissions and notices required by the Stipulation and Final Judgment shall be sent to:  
14 For Plaintiff:

15 Denise Tsuji, Branch Chief  
16 Enforcement and Emergency Response Division  
17 Hazardous Waste Management Program  
18 Department of Toxic Substances Control  
19 8800 Cal Center Drive, MS R1-3  
20 Sacramento, CA 95826-3200

21 and

22 Sonia Wills, Senior Staff Counsel  
23 Office of Legal Counsel  
24 Department of Toxic Substances Control  
25 700 Heinz Avenue, Suite 200  
26 Berkeley, CA 94710-2721

27 and

28 Rose B. Fua  
Deputy Attorney General  
Office of the Attorney General  
1515 Clay Street, 20th Floor  
Oakland, CA 94612-0550

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For AGI :

Ardagh Glass, Inc.  
Darryl Schaffer, Plant Manager  
24441 Avenue 12  
Madera, CA 93637

With a copy to:

Maureen Gorsen  
Alston & Bird LLP  
1115 11<sup>th</sup> Street  
Sacramento, CA 95814  
[maureen.gorsen@alston.com](mailto:maureen.gorsen@alston.com)

Any party may change its notice and name and address by informing the other parties in writing by certified mail. The change shall be effective upon receipt of the certified mail.

b. All notices and communications required or permitted under this Final Judgment that are properly addressed as provided in this section are effective upon delivery if delivered personally or by overnight delivery, or are effective five (5) days following deposit in the United States mail, postage prepaid, if delivered by mail, or are effective the next court day that electronic mail is sent before 5 p.m. (PST) to the electronic mail addresses of the designated recipient for notice concurrent with sending the notice by United States mail.

**9. NECESSITY FOR WRITTEN APPROVALS**

All notices, approvals, and decisions of DTSC under the terms of the Stipulation or this Final Judgment shall be communicated to AGI in writing. No oral advice, guidance, suggestions, or comments by employees or officials of DTSC regarding submissions or notices shall be construed to relieve AGI of its obligations to obtain any final written approval required by the Stipulation or this Final Judgment.

**10. NO LIABILITY OF DTSC**

DTSC shall not be liable for any injury or damage to persons or property resulting from acts or omissions by AGI or their respective officers, directors, employees, agents, representatives, contractors, successors, or assigns, in carrying out activities pursuant to this Final Judgment, nor shall DTSC be held as a party to or guarantor of any contract entered into by AGI or their

1 respective officers, directors, employees, agents, representatives, contractors, successors, or  
2 assigns, in carrying out the requirements of the Stipulation or this Final Judgment.

3 **11. NO WAIVER OF RIGHT TO ENFORCE**

4 The failure of DTSC to enforce any provision of the Stipulation or this Final Judgment shall  
5 neither be deemed a waiver of such provision, nor in any way affect the validity of the Stipulation  
6 or this Final Judgment. The failure of DTSC to enforce any such provision shall not preclude it  
7 from later enforcing the same or other provisions of the Stipulation or this Final Judgment. No  
8 oral advice, guidance, suggestions, or comments by employees or officials of DTSC regarding  
9 matters covered in the Stipulation or this Final Judgment shall be construed to relieve AGI of its  
10 obligations under the Stipulation or this Final Judgment.

11 **12. FUTURE REGULATORY CHANGES**

12 Nothing in the Stipulation or this Final Judgment shall excuse AGI from meeting any more  
13 stringent requirements that may be imposed by changes in applicable law.

14 **13. APPLICATION OF CONSENT JUDGMENT**

15 The Stipulation and this Final Judgment shall apply to and be binding upon DTSC and upon  
16 AGI, and upon its officers, managers, employees, agents, contractors, successors, and assigns in  
17 their official capacity.

18 **14. CONTINUING JURISDICTION**

19 The Parties agree that this Court has continuing jurisdiction to interpret and enforce the  
20 Stipulation and this Final Judgment. The Court shall retain continuing jurisdiction to enforce the  
21 terms of the Stipulation and this Final Judgment and to address any other matters arising out of or  
22 regarding the Stipulation and this Final Judgment.

23 **15. ABILITY TO INSPECT AND COPY RECORDS AND DOCUMENTS**

24 AGI shall permit any duly authorized representative of DTSC and the Madera County  
25 CUPA, as authorized by law, to exercise their respective regulatory authority to inspect and copy  
26 AGI's records and documents to, inter alia, determine whether AGI is in compliance with the  
27 terms of the Stipulation and this Final Judgment.

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**16. INTERPRETATION OF STIPULATION AND FINAL JUDGMENT**

DTSC and AGI agree that the rule of construction holding that ambiguity is construed against the drafting party shall not apply to the interpretation of the Stipulation and this Final Judgment.

**17. INTEGRATION**

The Stipulation and this Final Judgment constitutes the entire agreement between DTSC and AGI with respect to the matters alleged in the Complaint and may not be amended or supplemented except as provided for in the Stipulation or this Final Judgment.

**18. MODIFICATION OF FINAL JUDGMENT**

The Stipulation and this Final Judgment may be modified by express written agreement of the Parties, with the approval of the Court, or by an order of the Court in accordance with law.

**19. COSTS AND ATTORNEYS' FEES**

Except as otherwise provided in the Stipulation and this Final Judgment, each Party to the Stipulation and Final Judgment shall bear its own costs and attorneys' fees.

**20. ENTRY OF JUDGMENT**

The Clerk of the Court is ordered to entry forthwith this Final Judgment, and to provide promptly to the Parties, notice of entry of the Final Judgment.

**IT IS SO ORDERED, ADJUDGED, AND DECREED.**

Dated: 8/4/16

original signed by MARK W SNAUFFER  
\_\_\_\_\_  
JUDGE OF THE SUPERIOR COURT

# EXHIBIT "A"

**Annual Status Report**

**Ardagh Glass, Inc.  
24441 Avenue 12, Madera, California**

Ardagh Glass, Inc. ("AGI") submits this Annual Status Report pursuant to Paragraph 2.14 of the Stipulation for Entry of Final Judgment and Permanent Injunction on Consent, which was entered into by AGI and the State of California, *ex rel.* Barbara A. Lee, Director, California Department of Toxic Substances Control ("DTSC") on [DATE] and approved by a Final Judgment entered by the Superior Court of Fresno County on [DATE] (the "Final Judgment"). DTSC approved the form of this Annual Status Report prior to entry of the Final Judgment.

Per Paragraph 2.14, this Annual Status Report requires AGI to report to DTSC annually for five (5) years from the entry of the Final Judgment, beginning one year after the entry of the Final Judgment. Capitalized terms used in this Annual Status Report shall have the same meaning as the Final Judgment. The report contains three main elements: (1) description of AGI's compliance with the terms of the Final Judgment and the company's implementation of its compliance program; (2) notification of the occurrence of a reportable event(s), as defined in California Health & Safety Code 25508.1; (3) description of any NOV or SOV issued to AGI for the Facility, including actions taken in response to the NOV or SOV and any penalties paid.

(1) AGI's Compliance Program.

<b>Para.</b>	<b>Requirement</b>	<b>Compliance (Y, N, N/A)</b>	<b>Explanation for Non- Compliance, if applicable</b>
2.1	Dispose of Hazardous Waste only at authorized waste facilities.		
2.2	Identify all Wastes generated, stored, treated, and/or otherwise Managed at the Facility (waste inventory).		
2.2	Determine if any Wastes identified at Facility are Hazardous Wastes.		
2.2	Maintain a current written list of all Hazardous Wastes generated, stored, treated, and/or otherwise Managed at the Facility.		
2.2	Make written list of all Hazardous Wastes available to DTSC and/or Madera County CUPA upon request.		
2.3	Determine if Hazardous Wastes meet definition of restricted Waste under 22 CCR 66268.29 or prohibited Waste under 22 CCR 66268.32.		
2.3	If Land Disposal Restrictions (LDR) of title 22 CCR 66268.105 – 66268.114 apply, test, track, and notify according to		

Para.	Requirement	Compliance (Y, N, N/A)	Explanation for Non-Compliance, if applicable
	22 CCR 66268.7 and 66268.9, as applicable.		
2.3	If applicable, maintain LDR testing, tracking, and notification records at the Facility for a period of five years or as otherwise required by law, whichever is longer (then can be moved offsite).		
2.3	If applicable, make LDR records available to DTSC and/or Madera County CUPA upon request.		
2.4	Dispose of Hazardous Waste within ninety (90) days of accumulation start date or as otherwise permitted by 22 CCR 66262.34.		
2.4	Prepare or cause to be prepared a Hazardous Waste manifest for Hazardous Waste that is transported or submitted for transportation for offsite handling, treatment, storage, disposal, or any combination thereof.		
2.4	Submit Hazardous Waste manifests to DTSC in a timely manner.		
2.4	Timely notify DTSC of the TSDF's failure to return an executed manifest.		
2.4	Identify EP Dust by its Waste Profile ID number and the words "EP Dust" on any Hazardous Waste manifest used for the transportation or disposition of EP Dust.		
2.5	Mark Hazardous Waste containers with the initial accumulation date and a label with "Hazardous Waste," the composition and physical state of the waste, the hazardous properties, and the name and address of the generator.		
2.6	Weekly inspections of all areas of the Facility where Hazardous Waste is generated or accumulated.		
2.6	Weekly inspections of all 20-yard roll off bins at the Facility.		
2.6	Manage spills or releases of Hazardous Waste at the Facility consistent with the HWCL.		

Para.	Requirement	Compliance (Y, N, N/A)	Explanation for Non-Compliance, if applicable
2.6	Written records noting the date, location, type, and amount of Hazardous Waste spilled and/or released and its ultimate disposition, consistent with the Facilities Spill Response Plan (a.k.a. "Contingency Plan").		
2.7	Conduct and maintain a tank assessment prior to using any tank for the Management of Hazardous Waste.		
2.7	Make tank assessment available to DTSC and/or Madera County CUPA upon request.		
2.7	For any closed tank at the Facility, submit a certificate to the Madera County CUPA certifying that the closed tank has been properly clean closed.		
2.8	Provide secondary containment assessment for each tank and tank system used at the Facility to store, treat, and/or otherwise Manage Hazardous Waste.		
2.9	Prepare and implement a written daily tank inspection plan for each tank and tank system used at the Facility to accumulate, store, transfer, treat, and/or otherwise manage Hazardous Waste.		
2.9	Maintain log of daily tank inspections, including any corrective actions taken.		
2.10	Maintain and operate the Facility to minimize the possibility of unplanned, sudden, or non-sudden releases of Hazardous Waste.		
2.11	Train employees about Management of Hazardous Waste as required by 22 CCR 66265.16.		
2.11	Maintain training records for current employees until closure of Facility.		
2.11	Maintain training records for former employees for at least three (3) years from the date the employee last worked at the Facility.		
2.12	Treat Hazardous Waste only as authorized by HWCL.		

Para.	Requirement	Compliance (Y, N, N/A)	Explanation for Non-Compliance, if applicable
2.12	Treat EP Dust only if AGI establishes that it meets the HSC 25143.2 recyclable materials exemptions or exclusions during the entire period of the claim of recycling. Notify DTSC pursuant to HSC 25143.10 unless AGI demonstrates that HSC 25143.10 is inapplicable.		
2.14	Employ and maintain an Environmental Associate.		
2.15	Select and retain an Auditor.		
2.15	Submit Auditor's name and qualifications to DTSC prior to selecting Auditor.		
2.15	Auditor to conduct annual Hazardous Waste compliance audits and submit audit report to AGI with copy to DTSC. Audits to be completed within eighteen (18), thirty-six (36), and fifty-four (54) months after entry of Final Judgment and submitted to DTSC within sixty (60) days after those deadlines.		
2.15	Provide DTSC with a plan and schedule to correct any deficiencies raised in Auditor's report and identify any corrective actions already taken.		

(2) Notification of Reportable Events.

Within 30 days of any one of the following events, AGI electronically updated the information submitted to the statewide information management system (as indicated by an "X" placed next to the event):

Reportable Events	X
A 100 percent or more increase in the quantity of a previously disclosed material.	
Any handling of a previously undisclosed hazardous material subject to the inventory requirements of division 20, chapter 6.95, article 1 of the Health and Safety Code.	
Change of business or facility address.	
Change of business ownership.	
Change of business name.	
A substantial change in the handler's operations occurs that requires modification to any portion of the business plan.	X

(3) Notices of Violation/Summary of Violation.

<b>NOV/SOV</b>	<b>Date NOV/SOV Issued to AGI</b>	<b>Description, including Corrective Actions Taken, if any</b>	<b>Penalty</b>

# EXHIBIT "B"

AGENCY  
 Certified Unified Program Agency (CUPA)  
 Address, City, California ZIP  
 Telephone: (xxx) xxx-xxxx Fax: (xxx) xxx-xxxx

### HAZARDOUS WASTE GENERATOR INSPECTION REPORT - A

Facility Name \_\_\_\_\_ Date \_\_\_\_\_  
 Site Address \_\_\_\_\_ Time In \_\_\_\_\_ Time Out \_\_\_\_\_  
 Owner/Operator \_\_\_\_\_ Phone \_\_\_\_\_ Misc. \_\_\_\_\_

Type of Inspection  Routine  Re-inspection/Follow-up  Inspection Consolidation  Combined Routine Inspection EPA ID # \_\_\_\_\_  
 Complaint  Focused  Integrated or Multi-Media Inspection CUPA Facility ID# \_\_\_\_\_  
 Other \_\_\_\_\_

CONSENT TO INSPECT GRANTED BY (Name / Title): \_\_\_\_\_  
 Inspection may involve obtaining photographs, review and copying of records, and determination of compliance with hazardous waste handling requirements.

I - Class I Violation, II - Class II Violation, M - Minor Violation

Page \_\_\_\_\_ of \_\_\_\_\_

I	II	M	Code	HAZARDOUS WASTE REQUIREMENTS	Y	N	N/A	COMMENTS/NOTES/DOCUMENT(S) REVIEWED MISSING INFORMATION/ UNRESOLVED ISSUES
<b>Recordkeeping/documentation</b>								
			GR01	Generator has an EPA ID number				
			GR02	Hazardous waste determination made for all wastes <input type="checkbox"/> Analysis <input type="checkbox"/> Generator Knowledge				
			GR03	Contingency plan information posted near phone				
			GR04	Facility personnel demonstrate training/awareness				
			GR05	Manifests/Consolidated Manifest receipts complete				
			GR06	A legible copy of manifest mailed to DTSC				
			GR07	TSDf signed copy of manifest available w/in 35 days of waste shipment. Exception Report submitted				
			GR08	Bills of Lading/receipts available				
			GR09	LDRs available and complete				
			GR10	Onsite recycling reported using UPCF				
<b>Container/tank management</b>								
			GC01	Containers are in good condition				
			GC02	Containers are closed except when adding/removing				
			GC03	Empty containers are empty				
			GC04	Containers inspected weekly				
			GC05	Tanks inspected daily				
			GC06	Satellite containers at or near point of generation				
			GC07	Satellite containers under control of operator				
			GC08	One container per wastestream at satellite area				
			GC09	Exclude recyclable materials stored in accordance with local ordinance/hazardous materials codes				
<b>Accumulation Time Limits</b>								
			GA01	Waste is accumulated not more than 90/180/270				
			GA02	Satellite wastes accumulated for less than 1 year				
			GA03	Empty containers managed within one year				
			GA04	Universal waste accumulated less than one year				
			GA05	Used oil filters offsite within 180 (1 year if <1 ton)				
			GA06	Pb-acid batteries offsite within 180 (1 yr. if < 1 ton)				
<b>Labeling/Marking</b>								
			GL01	Containers are properly labeled				
			GL02	Satellite containers have 2 <sup>nd</sup> ASD marked once full				
			GL03	Excluded recyclable materials marked properly				
			GL04	Universal waste container properly labeled				
			GL05	Used oil filters marked "drained used oil filters"				
			GL06	Date written on spent lead-acid batteries				
			GL07	"Used Oil" marked on all used oil tanks/containers				
			GL08	Tank marked with "haz waste", contents, start date				
			GL09	Empty containers marked with date emptied				
<b>Treatment, Transport and Disposal/Other</b>								
			GT01	Have permit/authorization to do treatment				Print and sign in this box for receipt of this report. Signature does not imply agreement with findings, only receipt of report.
			GT02	Waste sent with authorized transport (gen. eligible)				
			GD01	Waste disposed of to authorized point/party				
			GH01	Failed to properly handle appliance wastes				

**POST INSPECTION INSTRUCTIONS:**

- Refer to the back of this inspection report for regulatory citations and corrective actions
- Correct the violation(s) noted above by \_\_\_\_\_
- Within 5 days of correcting all of the violations, sign and return a copy of this page to:  
 CUPA, address, city, CA, zip; ATTN: \_\_\_\_\_

Signature (that all violations have been corrected as noted) \_\_\_\_\_

Date \_\_\_\_\_

CODE	Description of violation [Regulatory/statutory citation] Corrective actions to be taken for minor violations (marked in the "M" column on front)
GR01	The facility failed to obtain an EPA ID number [Title 22, CCR, 66262.12] For a California EPA ID # contact the Department of Toxic Substances Control at 1-800-618-6942. For a EPA ID # call 415-495-8895. Write the number in the space marked "EPA ID # _____" on the front of this page.
GR02	The facility failed to make a waste determination for the _____ noted in the [Title 22, CCR, 66262.11] Make a determination of the waste based on your knowledge (you can use MSDS or other documents for help) or have the waste sampled and sent to a state certified laboratory for analysis. If sampling is conducted tell the lab to analyze for _____
GR03	The facility did not have the name and phone number of the emergency coordinator, the location of fire extinguishers and spill control equipment, or the fire department telephone number posted next to the telephone. [Title 22, CCR, 66262.34(d)(2)] Prepare and post the above information next to a phone.
GR04	Facility personnel did not demonstrate that they were familiar with proper waste handling procedures due to [Title 22, CCR, 66262.34(d)(2)] Provide training to personnel regarding _____
GR05	The facility failed to properly complete a hazardous waste manifest. Manifest # _____ was missing [Title 22, CCR, 66262.23(a)(1)]. Correct the information on the manifest in Box(es) _____, initial and date. Submit a letter to DTSC, GISS,; P.O. Box 806 Flr I-J; Sacramento, CA 95812-0806 stating the manifest #, the ship date, your EPA ID #, the Box # and correction made and your signature. (Correction for more than one manifest may be included in the same letter)
GR06	Facility failed to submit a copy of the manifest to DTSC within 30 days of shipment. [Title 22, CCR, 66262.23(a)(4)] New manifests do not have "mail to" address on the form any longer. Requirement to submit to State still exists. Copies (photocopy or original after TSDF copy is received) should be sent to DTSC Generator Manifests, P.O. Box 400, Sacramento, CA 95812-0400. No proof of submission is required. Inspectors may look at HWTS to determine if copies have been received (look for "Y" in the "Paired" column to start), but be aware that data entry to HWTS may lag by up to 6 months.
GR07	TSDF copies should be received within 35 days of shipment. If not, generators should contact TSDF to determine status. If copy not received within 45 days (or 60 days for <100kg/mon), an exception report should be submitted to DTSC. [Title 22, CCR, 66262.42].
GR08	The facility failed to have copies of receipts for the removal of _____ [HSC 25160.2-Consolidated manifests/ 66266.81(a)(6)(B)- lead acid batteries/66266.130- oil filters] The facility shall contact _____ and request copies of receipts between _____ & _____
GR09	The facility failed to complete or maintain a Land Disposal Restriction notification for manifest # _____ [Title 22, CCR, 66262.34(a)(4)] The facility shall determine if its waste is subject to LDR requirements, and if so, ensure that a LDR is prepared and submitted with each shipment of waste.
GR10	The facility did not submit a recycling report [HSC 25143.10] The facility shall complete and submit the UPCF form "Recyclable Materials Report". The form can be found at <a href="http://www.cal EPA.ca.gov/publications/title27/default.htm">www.cal EPA.ca.gov/publications/title27/default.htm</a> (Hw/recyc.pdf)
GC01	The facility failed to maintain containers holding hazardous waste in good condition. The container of _____ was [Title 22, CCR, 66262.34(a)(1)(A)] The contents of the container of _____ shall immediately be transferred to a container in good condition
GC02	The facility failed to keep containers closed except when adding/removing waste. The container of _____ was observed open [Title 22, CCR, 66262.34(a)(1)(A)]. The facility shall immediately close all containers and ensure that containers remain closed except when adding or removing waste.
GC03	The facility is handling contaminated containers as empty when they are not. A container of _____ was noted as not meeting the definition of empty. [Title 22, CCR, 66261.7] The facility shall mark the container as hazardous waste or consolidate the contents of the _____ container with a like waste and immediately label the emptied container with the words "empty" and the date.
GC04	The facility could not demonstrate that containers were being inspected weekly. [Title 22, CCR, 66262.34(a)(1)(A)] The facility shall develop and implement a plan that ensures that all containers holding waste are inspected weekly
GC05	The facility could not demonstrate that tanks were being inspected daily. [Title 22, CCR, 66262.34(a)(1)(A)] The facility shall keep a log showing that tanks holding waste are inspected daily.
GC06	Containers utilizing satellite accumulation rules were not at or near the point of generation. [Title 22, CCR, 66262.34(e)(1)(A)] The facility shall move the container holding _____ to a location that is at or near the point of generation or shall ensure that the waste is removed within 90/180/270 days of first drop of waste being added. (if the facility generates less than 100 kg, the clock does not start until 100 kg. are generated)
GC07	Containers utilizing satellite accumulation rules were not under the control of an operator. [Title 22, CCR, 66262.34(e)(1)(A)] The facility shall ensure that an operator is at or near the point of accumulation or shall ensure that the waste is removed within 90/180/270 days of first drop of waste being added
GC08	The facility kept more than one satellite container of _____ at a satellite accumulation area. [Title 22, CCR, 66262.34(e)(1)] The facility shall immediately remove all but one container from the accumulation area or shall demonstrate that it is not practical or safe to do such.
GC09	The facility stored excluded recyclable materials not in accordance with local ordinance/fire code/hazardous materials codes [HSC 25143.9(c)] The facility shall return to code by _____
GA01	The facility accumulated waste for greater than allowed time limits (Storage without a permit). A container of _____ had an start date of _____ marked on it. [Title 22, CCR, 66262.34(a)] The facility shall immediately arrange for the removal of the waste, and shall supply a copy of the manifest or bill of lading demonstrating removal within _____ days.
GA02	The facility held satellite accumulation wastes for greater than one year. [Title 22, CCR, 66262.34(e)(1)(B)] See GA01 above for corrections.
GA03	The facility failed to properly handle contaminated containers within 1 year. [Title 22, CCR, 66261.7(f)] See GA01 above for corrections.
GA04	The facility held universal wastes for greater than one year. [Title 22, CCR, 66273.15(a) or 66273.35(a)] See GA01 above for corrections.
GA05	The facility held drained used oil filters for greater than 180 days/one year. [Title 22, CCR, 66266.130(c)(4)] See GA01 above for corrections.
GA06	The facility held lead acid batteries for greater than 180 days/one year. [Title 22, CCR, 66266.81(a)(6)] See GA01 above for corrections.
GL01	The facility failed to properly label all containers. Containers, contents and missing information are noted on the front of this page. [Title 22, CCR, 66262.34(f)] The facility shall clearly mark all containers with the following: 1) the words "Hazardous waste", 2) composition and physical state, 3) hazard property, 4) name and address of the generator, and 5) accumulation start date.
GL02	The facility failed to mark the date the container was moved from the satellite accumulation area [Title 22, CCR, 66262.34(e)(1)(B)] The facility shall mark all satellite accumulation with the date waste is first added as well as the date the container is full.
GL03	The facility failed to mark tanks/container(s) of excluded recyclable materials properly [HSC 25143.9(a)] The tanks/containers of materials shall be clearly marked with the words "Excluded recyclable material" instead of "hazardous waste".
GL04	The facility failed to mark a container of universal waste properly. [Title 22, CCR, 66273.14 for SQH or 66273.34 for LQH]. The facility shall immediately mark all containers holding universal waste with the words "Universal Waste- _____"
GL05	The facility failed to mark a container of drained used oil filters with the words "drained used oil filters". [Title 22, CCR, 66266.130(c)(3)] The facility shall mark all filter containers with the words "drained used oil filters".
GL06	The facility failed to mark the date on which the battery was received. [Title 22, CCR, 66266.81(a)(6)(D)] The facility shall y mark the date on each battery.
GL07	The facility failed to mark a tank/container of used oil destined for recycling with the words "used oil" [HSC 25143.9(a)] Clearly mark all tanks and containers with the words "used oil".
GL08	The facility failed to mark the tank of _____ with the _____, [Title 22, CCR, 66234(f)] The facility shall clearly mark the tank with _____
GL09	The facility failed to mark contaminated containers with the date emptied. [Title 22, CCR, 66261.7(f)] Clearly mark all containers with the date emptied.
GH01	The facility failed to remove _____ from an appliance prior to crushing, baling, shredding, sawing or disposing of the appliance [HSC 25212(a)]. The facility must submit to DTSC an application to be certified as a "Certified Appliance Recycler"
GT01	The facility failed to obtain a permit or other authorization for treatment of hazardous waste. [HSC 25189.5(d)]
GT02	The facility failed to use a registered transporter/used a transporter or consolidated waste when they were not eligible [HSC 25165(a)/25160]
GD01	The facility disposed of hazardous waste at an unauthorized point. [HSC 25189.5(a)]



Guide to violations and violation codes found on back of the inspection report

100 kg ≈ 27 gallons liquid ≈ 220 lbs. solid; 1000kg ≈ 270 gallons liquid ≈ 2200 lbs. solid

Code	Regulation, description, guidance
GR01	<b>Facility failed to get and EPA ID #.</b> All generators (except silver only) must have an EPA ID #. If a facility generates more than 100 kg of RCRA waste in any month they need a Federal EPA ID, otherwise they need a California EPA ID.
GR02	<b>Facility failed to make a waste determination.</b> Facilities must make waste determinations for all wastes. They can apply generator knowledge, but it must be based on knowledge of the waste or process. Guidance can be given regarding lab testing, indicating test methods or generic test names (e.g. fish bioassay or CAM-17 WET or pH) and certified labs for use.
GR03	<b>Incomplete contingency plan info.</b> Facilities that generate less than 1000 kg/month may post the following information by the phone in place of generating a contingency plan: 1) emergency contact name and phone number, 2) fire department phone number, and 3) location of extinguishers and spill equipment.
GR04	<b>Personnel not adequately trained.</b> Facilities that generate less than 1000 kg/month only have to demonstrate that staff are familiar with waste handling procedures, not prepare a written training program or records of completion. Systemic problems with labeling, open containers or other waste handling procedures may be reason to use this citation.
GR05	<b>Failure to complete the manifest/incomplete consolidated manifest receipt.</b> Generators are responsible for Boxes 1-3 & 5-15. Consolidated Manifest receipts must include the following information: Facility Name, EPA ID number, type and quantity of waste, receiving facility name and address, manifest number, transporters name, signatures of generator and transporter
GR06	<b>Facility failed to submit manifest copy.</b> Each manifest contains 6 copies, two of which must be returned to DTSC (one by the generator). The generator now needs to photocopy their original manifest and send it to DTSC-GISS, P.O. Box 400, Sacramento, CA 95812-0400. Inspectors may only confirm this is being done by asking the facility if it has been done.
GR07	<b>Failed to submit exception report.</b> Facilities need to notify DTSC when they don't get a copy of the manifest back from the TSDf within 45 days of shipment. Within 60 days of this date, the report should be sent to DTSC.
GR08	<b>No copies of bills-of-lading/receipts.</b> Many wastes (oil filters, antifreeze, oil/water sludges, oily solids, brake fluid, paint related waste, photo solutions, hydroxide sludges, PERC, asbestos, ink, lab packs from K-12 schools, fuel filters) can be shipped under consolidated manifests or (lead-acid batteries and universal wastes) bills of lading. Transporters must leave a receipt with the generator at pick up of these wastes. The receipts need to be kept 3 years.
GR09	<b>No LDR.</b> LDR notifications must go with all RCRA wastes. Look for LDRs for each waste with a federal waste code in Box 13 of the manifest. LDRs should show what the waste (or code) is and the minimum treatment standard
GR10	<b>Failed to submit a recycling report.</b> Facilities that recycle more than 100 kg of waste for re-use onsite have to fill out the report form. Onsite recycling includes reuse of wastewater in plating baths, antifreeze recycling units, and re-circulating solvent sinks. Facilities may need help determining which exemption applies to them when filing the form.
GC01	<b>Containers in poor condition.</b> Containers holding waste should be free of severe rust, major dents and not leaking
GC02	<b>Containers not closed.</b> Containers must be kept closed unless adding or removing waste.
GC03	<b>Empty containers not empty.</b> Empty containers must not have a steady stream of liquid escape when inverted or solids must be scraped clear as much as practical. Empty containers may still have some waste in them after emptying from settling of residues-ensure the facility took measures to make the container empty (i.e. inverted it over new drum)
GC04	<b>Not inspecting containers weekly.</b> While inspections are required, logs are not required to be kept. Look for signs that containers aren't being inspected such as improper labeling, open containers or containers in poor condition.
GC05	<b>Tanks not inspected daily.</b> Written tank inspection logs are not required. Only applies to operating days (day tank is being used). Tank inspections should include condition of containment (including dryness), spill control, and corrosion.
GC06	<b>Claiming satellite, but not at or near point of generation.</b> Inspectors discretion for definition of "at or near". Wastes not at or near don't qualify for 1-year satellite accumulation rule, must be held to 90/180/270 day accumulation times.
GC07	<b>Satellite: Not under control of operator.</b> Containers should be able to receive regular attention from a human being.
GC08	<b>More than one container per wastestream.</b> Satellite accumulation rules allow only one container, up to 55 gallons in size, per satellite area for each waste stream unless it can be shown that it is not practical or safe.
GC09	<b>Excluded recyclable material storage.</b> These wastes are excluded, and not subject to Title 22 storage or accumulation rules, they are materials. Use fire code and local ordinance to govern storage (i.e. containment, occupancy segregation) unless no local ordinance exists, then default to Title 22 tank regs.

GA01	<b>Accumulation greater than time limits (Storage without a permit).</b> If the facility generates >100 kg/mo. (total waste), clock starts with first drop. If the facility generates <1000 kg/mo.(total) AND never has >6000 kg onsite AND ships >200 miles they get 270 days to accumulate. If generating <1000 kg/mo. (total) AND never has >6000 kg onsite they get 180 days. If generating >1000 kg/mo. (total), they get 90 days to accumulate. If <100 kg/mo., get 180/270 days from the time they reach the 100 kg total waste. If > 1 kg./mo. of Acutely/Extremely hazardous, treat like >1000 kg. of "regular" waste.
GA02	<b>Satellite accumulation for greater than one year.</b> Satellite wastes can be held for one year from first drop OR 90/180/270 days from time container is full, whichever comes first.
GA03	<b>"Empty" containers held greater than one year.</b> Empty containers should be sent offsite for scrap value, reconditioning, reuse or refill if greater than 5 gallons. Those ≤5 gallons may be disposed of to a solid waste facility (with the trash).
GA04	<b>Universal waste greater than one year.</b> Universal wastes (fluorescent light tubes, non lead-acid batteries, mercury switches from thermostats, aerosol cans and intact CRTs) may be stored onsite for up to one year.
GA05	<b>Oil filters greater than 180 days/1yr.</b> A facility can hold up to one ton (≈4 drums of crushed or 8 drums of uncrushed) of filters for one year. If the one ton limit is reached, the filters should be sent off within 180 days of the date the first filter was added to each container.
GA06	<b>Lead-acid batteries greater than 180 days/1 year.</b> A facility can hold up to one ton (≈65 batteries) of batteries for one year. If the one ton limit is reached the batteries should be sent off within 180 days of the date on the first battery collected.
GL01	<b>Labeling.</b> The facility shall clearly mark all containers with the following: 1) the words "Hazardous waste", 2) composition and physical state, 3) hazard property (e.g. toxic), 4) name and address of the generator, and 5) accumulation start date.
GL02	<b>Marking satellite full date.</b> Once a satellite container is full, it is subject to the 90/180/270 day or 1 yr. ceiling, which ever comes first. The "full date" indicates the beginning of this time period, while the "original date" is used for the 1 yr. limit.
GL03	<b>Marking "excluded recyclable materials".</b> Recyclable materials do not have to put the same information on containers or tanks as wastes. During accumulation of materials containers need to be marked with the words "excluded recyclable materials" in place of "hazardous waste". All other labeling requirements remain. If the material is being sent offsite, the materials (DOT) labeling and placarding must be followed.
GL04	<b>Marking Universal Waste.</b> Universal waste containers must be marked "Universal Waste - (type)" OR " Waste (type)" OR "used (type)". (Type) is Batteries, mercury thermostats, lamps, aerosol cans. CRTs can be marked, "CRTs" or "CRT glass"
GL05	<b>Oil Filter marking.</b> Filters must be marked with the words "Drained Used Oil Filters" and the date the first filter is added to the container.
GL06	<b>Lead Acid Battery marking.</b> Each battery must be marked with the date it is received or determined to no longer be usable. Damaged batteries must have the date written on the outside of the container holding the damaged battery.
GL07	<b>Used oil marking.</b> All tanks and containers that hold used oil destined for offsite recycling must be marked with the words "used oil". Used Oil containers do not have to have the physical state or hazardous properties marked on them.
GL08	<b>Tanks properly labeled.</b> Tanks must be marked with the words "Hazardous Waste", the contents of the tank, and the accumulation start date
GL09	<b>"Empty" container marking.</b> Contaminated containers that are empty (see GC03) must be marked with the date they are emptied unless being sent for refilling. ( <i>All other packaging or product information should be removed or obscured.</i> )
GH01	<b>Uncertified appliance recycler.</b> Businesses must be certified by DTSC before removing PCB Capacitors, mercury switches, CFCs, oil, or sodium azide canisters from major appliances. Each item MUST be removed prior to baling, crushing, shredding, etc. Appliances may be sent by an unregistered location to a certified recycler with first being processed. Once removed, all removed items must be handled as Hazardous Wastes.
GT01	<b>Illegal Treatment.</b> A permit or authorization (PBR/CA/CE) is needed to treat hazardous waste. Treatment is defined as: method, technique or process that changes the physical, chemical or biological character or composition or a waste AND causes the waste become non- or less hazardous. Many activities have been specifically exempted from this: (1) adding absorbent that changes only the physical state of the waste, (2) dilution that does not result in a less hazardous waste, (3) mixing like wastes for consolidation prior to offsite shipment, and (4) without adding heat, chemicals or pressure (a) sieving or filtering liquids to remove solid fractions, (b) phase separation during accumulation, or (c) evaporation of water.
GT02	<b>Failed to use registered transporter/used consolidated manifest when not eligible.</b> Consolidated transporters need to have registered with DTSC. List of registered transporters can be found at 916-255-4368 or at <a href="http://www.dtsc.ca.gov/HazardousWaste/Trans000.cfm">http://www.dtsc.ca.gov/HazardousWaste/Trans000.cfm</a> . The facility must generate <1000 kg./mo. total waste (excluding used oil) to be eligible.
GD01	<b>Illegal disposal.</b> Hazardous wastes must be sent to an authorized treatment, storage or disposal facility. Application of wastes to land is prohibited.