

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Lights Out Disposal Company
1097 W. Palm Avenue, Suite 100
El Cajon, California 92020

ID No. CAL000342608

Respondent.

Docket HWCA 2011-4370

CONSENT ORDER

Health and Safety Code
Section 25187

1. INTRODUCTION

1.1. Parties. The California Department of Toxic Substances Control (Department) and Lights Out Disposal Company (Respondent) enter into this Consent Order (Order) and agree as follows:

1.2. Site. Respondent is a Universal Waste handler (i.e. fluorescent lamps, batteries) at the following site: 1097 W Palm Avenue, Suite 100, El Cajon, CA 92020 (Site).

1.3. Inspection. The Department conducted a complaint investigation at the Site on August 16, 2011.

1.4. Authorization Status. Respondent notified the Department as a Handler of Universal Waste Electronic Devices on April 13, 2011, Facility ID 14407.

1.5. Jurisdiction. Health and Safety Code, section 25187, authorizes the Department to order action necessary to correct violations and to assess a penalty when the Department determines that any person has violated specified provisions of the Health and Safety Code or any permit, rule, regulation, standard, or requirement issued or adopted pursuant thereto.

1.6. Full Settlement. This Order shall constitute full settlement of the violations alleged below. The Parties, and each of them, agree that this Order, and all of the terms contained herein, are fair, reasonable, and in the public interest. By agreeing to this Order, the Department does not waive any right to take other enforcement actions except as specifically provided in this Order.

1.7. Hearing. Respondent waives any and all rights to a hearing in this matter.

1.8. Admissions. Respondent admits the violations as alleged in Section 2 below.

2. VIOLATIONS ALLEGED

2.1. The Department alleges the following violations:

2.1.1. Respondent violated California Health and Safety Code, section 25201(a) in that on or about August 16, 2011 Respondent accepted and stored hazardous waste without authorization from the Department. A total of eight (8) 55-gallon drums of crushed fluorescent lamps, a hazardous waste, were accepted and stored at Respondent's Site. Hazardous waste manifests (Uniform Hazardous Waste Manifests No. 008378195 JJK and No. 0022816651FLE) provided by the Respondent showed that seven (7) of the eight (8) 55-gallon drums were managed as a hazardous waste.

2.1.2. Respondent violated California Health and Safety Code, section 25163(a) in that on or about August 16, 2011 Respondent failed to have a valid hazardous waste hauler registration issued by the Department while transporting hazardous waste. Respondent transported crushed fluorescent lamps, a hazardous waste, on June 22, 2011.

2.1.3. Respondent violated California Code of Regulations title 22, section 66265.173 (a), in that on or about August 16, 2011, Respondent failed to keep containers

holding crushed fluorescent lamps, a hazardous waste, closed. Two 55-gallon drums of crushed fluorescent lamps and two 5-gallon buckets containing “accidentally” broken fluorescent lamps (Universal Waste) were open while in storage.

2.1.4. Respondent violated California Code of Regulations title 22, section 66262.34(f) (3), in that on or about August 16, 2011, Respondent failed to label or mark clearly containers holding “accidentally” broken fluorescent lamps as Universal Waste.

2.1.5. Respondent violated Health and Safety Code section 25160(d) and California Code of Regulations, title 22, section 66262.20(d) in that on or about June 22, 2011, Respondent transported a shipment of five 55 gallon drums respectively of crushed fluorescent lamps, a hazardous waste, without a Uniform Hazardous Waste Manifest.

2.1.6. Respondent violated section California Code of Regulations section 66273.36(a) and (b) in that on or about August 16, 2011, Respondent failed to ensure that all personnel, including drivers, who manage Universal Wastes, were thoroughly familiar with proper Universal Waste management and emergency response procedures relative to their responsibilities.

3. SCHEDULE FOR COMPLIANCE

3.1. Respondent shall comply with the following:

3.1.1. Respondent shall not accept and store crushed fluorescent lamps, a hazardous waste, from off-site without a permit or authorization from the Department.

3.1.2. Respondent shall not transport hazardous waste without a permit or valid registration issued by the Department.

3.1.3. Respondent shall keep closed all containers holding crushed fluorescent lamps, except when adding or removing hazardous waste.

3.1.4. Respondent shall mark and properly label all containers holding Universal Waste fluorescent lamps or “Universal Waste accidental broken lamps” as required.

3.1.5. Respondent shall not transport hazardous wastes without a hazardous waste manifest in his or her possession.

3.1.6. Respondent is a handler of Universal Waste and must provide personnel with proper training to manage and respond to Universal Waste spills/releases. Personnel must receive initial and annual training using written material that includes:

- 1) The types and hazards associated with the universal waste,
- 2) The proper disposition of the universal wastes,
- 3) The proper procedures for responding to releases of universal wastes, and
- 4) The applicable requirements regarding labeling, collecting, handling, consolidating and shipping universal wastes.

3.1.7. Respondent shall make all payments at the time(s) and in accord with any other conditions set forth in Section 5 (Penalty) below.

4. OTHER PROVISIONS

4.1. Liability. Nothing in this Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondent, except as provided in this Order. Notwithstanding compliance with the terms of this Order, Respondent may be required to take such further actions as are necessary to protect public health or welfare or the environment.

4.2. Penalties for Noncompliance. Failure to comply with the terms of this Order may subject Respondent to costs, penalties and/or damages, as provided by Health and Safety Code, section 25188, and other applicable provisions of law.

4.3. Parties Bound. This Order shall apply to and be binding upon Respondent and its officers, directors, agents, employees, contractors, consultants, receivers, trustees, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations, and upon the Department and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Order.

4.8. Integration. This agreement constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except as provided in this Order.

5. PENALTY

5.1. Respondent shall pay the Department the total penalty in the amount of \$35,000.00 dollars. Of the total penalty due, \$12,000.00 dollars is monetary fine, \$3,000.00 dollars shall be a credit for attending and completing California Compliance School and \$20,000.00 dollars shall be a credit for a Supplemental Environmental Project (SEP) approved by the Department.

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PAYMENTS:

5.2. Respondent shall pay the Department a total sum of \$ **12,000.00** dollars as follows: Respondent will submit four (4) equal payments of \$ 3,000.00 dollars every six months. The first payment is due within 30 calendar days of the effective date of this Order Respondent's check shall be made payable to the Department of Toxic Substances Control, shall identify the Respondent and Docket Number (HWCA 2011-4370) on the check and shall be delivered together with the attached Payment Voucher to:

Department of Toxic Substances Control
Accounting Office
1001 I Street, 21st floor
P. O. Box 806
Sacramento, California 95812-0806

A photocopy of the check(s) shall be sent to:

Alfredo Rios, Supervising Hazardous Substances Scientist I
Emergency Response & Enforcement Program
Department of Toxic Substances Control
9174 Sky Park Court Suite 150
San Diego California 92123

5.3. If Respondent fails to make payment as provided above, Respondent agrees to pay interest at the rate established pursuant to Health and Safety Code, section 25360.1, and to pay all costs incurred by the Department in pursuing collection including attorney's fees.

5.4. Respondent hereby agrees to send three employees to the California Compliance School (Modules I-IV). Attendance must be completed and the Respondent must submit a Certificate of Satisfactory Completion issued by the California Compliance School to the Department within 180 days of the date of this Order. In recognition of this

educational investment, Respondent will receive a credit of \$3,000.00 dollars, if the employee(s) satisfactorily completes the specified modules. If Respondent fails to submit the certificate as required, the penalty is due and payable within 30 days after the 180-day period expires.

5.5. Supplemental Environmental Projects: The Department shall give Respondent a credit of \$20,000.00 dollars for a SEP to be performed by the Respondent as specified as follow: Respondent agrees to organize, schedule, and conduct training classes on Universal Waste Management for twenty six (26) San Diego County School Districts in San Diego County. The primary objective of the training classes shall be to inform and educate the maintenance personnel from the San Diego County School Districts on the proper management of spent fluorescent lamps, including fluorescent tubes, compact fluorescent lamps, metal halide lamps and sodium vapor lamps. The SEP shall start within 30 days of the effective date of this Order and Respondent shall complete the SEP within 360 calendar days of the effective date of this Order. Respondent must provide the Department with documentation, that the SEP was performed in accordance with the primary objective of the training classes above specified. The documentation shall include a certification under penalty of perjury from the Respondent that the SEP was performed as described in the documentation provided to the Department, and that monetary funds were expended in the amount set forth in that documentation.

In the event that Respondent shall fail to complete the required SEP, the penalty is due and payable within 30 days after the 360-day period expires.

6. EFFECTIVE DATE

6.1. The effective date of this Order is the date it is signed by the Department.

Dated: November 27, 2012

Original signed by Alexis S. Woodford
Ms. Alexis S. Woodford
President
Lights Out Disposal Company

Dated: November 27, 2012

Original signed by Alfredo Rios
Alfredo Rios
Supervising HSS I
Emergency Response and Enforcement Program
Department of Toxic Substances Control