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DEPARTMENT OF TOXIC
SUBSTANCES CONTROL

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

SA Recycling, LLC
2035 E. 15th Street
Los Angeles, California 90021
ID No. CAL000344528

Respondent.

Docket No. HWCA 20167257

INTERIM
CONSENT ORDER

Health and Safety Code
Sections 25170 and 25187

The State Department of Toxic Substances Control (Department or DTSC) and SA Recycling, LLC (Respondent), collectively the Parties, enter into this Interim Consent Order (Interim Order), and agree as follows:

1. Respondent operates a used oil filter recycling facility, formerly known as Commercial Filter Recycling, at 2035 E. 15th Street, Los Angeles, CA 90021 (Facility).
2. On March 10 and May 10, 2016, the Department inspected the Facility.
3. The Department alleges in its May 20, 2016 Summary of Violations that on or about March 10, 2016, Respondent violated:

3.1. Health and Safety Code, section 25201(a) and California Code of Regulations, title 22, section 66266.130,¹ in that Respondent A) accepted, B) stored, and C) treated hazardous waste undrained used oil filters at its Facility without a hazardous waste facilities permit or other grant of authorization from DTSC.

3.2. Sections 66260.200 and 66262.11, in that Respondent failed to determine that undrained used oil filters are a hazardous waste.

¹ Unless otherwise specified, all legal citations are to Title 22 of the California Code of Regulations.

3.3. Section 66262.34(f), in that Respondent failed to A) properly label and B) properly close containers of hazardous waste as required by section 66265.173.

3.4. Section 66263.17 and Health and Safety Code, section 25163(a)(1), in that Respondent transported at least six 55-gallon drums containing an undetermined quantity of undrained used oil filters to the Facility. SA Recycling is not a registered hazardous waste transporter.

3.5. Section 66263.20, in that Respondent transported multiple 55-gallon drums containing an undetermined quantity of undrained used oil filters to its Facility without a hazardous waste manifest.

4. Respondent disputes the alleged violations. Respondent asserts that it is managing properly drained used oil filters, which may still emit a continuous stream of oil when inverted at a later time.

5. Jurisdiction exists pursuant to Health and Safety Code sections 25170 and 25187.

6. The Parties wish to avoid the expense of litigation and to ensure prompt compliance before fully resolving the alleged violations. The Parties agree that this Interim Order, and all of the terms contained herein, are fair, reasonable, and in the public interest.

7. Respondent waives any rights to a hearing regarding this Interim Order, and fully reserves its rights to a hearing regarding the violations alleged in paragraph 3.

8. Except as expressly set forth herein, this Interim Order does not limit the Department from taking appropriate enforcement action concerning the alleged violations in paragraph 3 above.

9. This Interim Order is focused solely on used oil filter acceptance and management requirements, and does not exempt or excuse Respondent from complying with existing law, or with any more stringent requirements that may be imposed by changes in applicable law.

SCHEDULE FOR COMPLIANCE

10. Respondent shall immediately comply with the following provisions:

10.1. Comply with all requirements in section 66266.130, including, but not limited to, bill of lading, tracking, container, and labeling requirements.

10.2. Notify DTSC at least 24 hours before accepting uncrushed used oil filters and, if the dates differ, before resuming its shredding operations so that DTSC may be present when Respondent resumes those activities.

10.3. Provide a copy of the used oil filter regulations (section 66266.130) to all facilities generating used oil filters handled by Respondent. Where the Respondent does not have a direct relationship with the generating facility, the Respondent shall accomplish this by requiring a certification from its customers that each customer has provided a copy of the used oil filter regulations to the generating facilities whose used oil filters they transport. This customer certification shall also include a list of the recipients of the used oil filter regulations and state that the information submitted is true, accurate, and complete.

10.4. Develop and implement a system that enables identification of the facilities generating the drums of used oil filters handled by Respondent, and that contains all the information required in section 66266.130(c)(5). Respondent shall reject drums without sufficient tracking information on each drum or on the associated

bill(s) of lading to track each drum to its generating facility.

11. Respondent agrees to immediately begin implementing the following Interim Operating Conditions, outlined in paragraphs 11.1 through paragraph 11.6, to assess incoming used oil filters from generators and assist the Department in evaluating standard operating practices to improve statewide compliance with section 66266.130.

11.1. Respondent shall:

A. Select five (5) percent of the incoming drums containing uncrushed used oil filters for screening daily.

B. Empty each drum, one at a time, for examination.

C. Measure and record the height of any free oil in the drum using a dipstick.

D. Measure and record the volume of free oil in the drum.

E. Collect 10 used oil filters from the top one-half (1/2) of each drum for screening. Filters with obvious signs of not being drained shall be screened (e.g., free-flowing oil draining from the oil filter).

F. Record the size of the used oil filter and note whether it has a rubber flap (i.e., anti-drainback or anti-backflow valve).

G. Drain, then collect, measure, and record the volume of used oil exiting each of the 10 selected used oil filters. Draining shall consist of puncturing or opening and manipulating the rubber flaps, inverting each filter over a container, and allowing any free-flowing used oil to exit the filter until there is no longer a continuous stream.

H. For purposes of these Interim Operating Conditions, a selected used

oil filter shall be deemed an undrained used oil filter if, during the process outlined in paragraph 10.2(G), above, the oil exiting the selected oil filter exceeds 100 mL for every quart (32 ounces) of calculated oil filter volume. To calculate oil filter volume, Respondent shall first measure the diameter and height of the filter; divide the diameter by 2 to calculate the radius; then use the radius as r and the height as h in the following formula for a cylinder's volume (V): $V = \pi r^2 h$. For example, if a filter with 16 ounces of calculated volume emits over 50 mL of oil, that filter is undrained under this section.

I. Respondent shall reject drums with three (3) or more undrained used oil filters identified through this screening process.

11.2. Respondent shall track and record the following:

A. On a daily basis: the number of drums containing used oil filters received per day, the number of drums containing uncrushed used oil of filters received per day, and the number of drums containing uncrushed used oil filters selected for screening pursuant to paragraph 11.1(A).

B. For each drum selected for screening pursuant to paragraph 11.1(A): the actual or estimated number of used oil filters per drum, the height and volume of any free oil in each drum, the number of used oil filters selected for screening, the volume of used oil exiting each used oil filter selected for screening, the number of undrained used oil filters as defined in paragraph 11.1(H), and whether the drum was accepted or rejected by Respondent pursuant to paragraph 11.1(I). Respondent shall also track and record the daily total volume of used oil generated and the average volume of used oil generated per drum of

used oil filters processed.

11.3. Respondent shall maintain a log of used oil filter generators whose drums were rejected. This log shall include the date the drum was received, the date the drum was screened, the date the drum was rejected, the basis for rejection, and the drum marking(s) or code(s) identifying the drum. Respondent shall notify the generator listed on the bill of lading for that drum or drum(s) of the basis for rejection.

11.4. Respondent shall collect and maintain onsite all used oil filter bills of lading, data, screening results, and records associated with these Interim Operating Conditions. Respondent shall provide copies of all used oil filter bills of lading, data, screening results, and records associated with these Interim Operating Conditions on a weekly basis.

11.5. Respondent shall grant Department staff access to the Facility to conduct its own screening of used oil filters and to collect additional information related to the amounts of used oil in incoming used oil filters and drums.

11.6. These Interim Operating Conditions shall expire three months after the Effective Date of this Interim Order, unless terminated earlier because Respondent discontinues its uncrushed used oil filter shredding operation and so notifies the Department, or the Department determines that a permit is required for Respondent's used oil filter shredding operation, or is otherwise superseded. The Department and Respondent may agree to extend these Interim Operating Conditions, as they may be further refined, until the effective date of any new regulations governing used oil filter management that supplant the requirements of this Interim Order.

12. Respondent shall immediately begin to segregate any extraneous waste

observed, including waste non-metallic oil and fuel filters, and characterize that waste for soluble metals, total metals, benzene and aquatic toxicity. Respondent shall prepare and submit to DTSC a monthly report for the extraneous waste that includes: dates of observation, quantities and types of extraneous waste(s) observed, copies of all analytical data, and drum and generator identity information for each drum that was screened pursuant to paragraphs 11.1(A) through 11.1(I) above, and found to contain extraneous waste. Respondent shall manage all extraneous hazardous waste in properly labeled and closed containers, and in compliance with the Hazardous Waste Control Law and its associated regulations.

13. Unless Respondent manages its shredded, non-scrap metal filter treatment residue as hazardous waste, it shall characterize all treatment residues for soluble metals, total metals, benzene and aquatic toxicity in accordance with sections 66261.3(c) and (d). Respondent shall develop a sampling and analysis plan to characterize this filter treatment residue in accordance with the Chapter 9 of the United States Environmental Protection Agency's Test Methods for Evaluating Solid Waste: Physical/Chemical Methods, also referred to as SW-846.

14. Submittals: All submittals from Respondent pursuant to this Interim Order shall be sent to:

Antonia Becker, Branch Chief
Office of Criminal Investigations
700 Heinz Avenue, Suite 100
Berkeley, California 94710-2721
(Antonia.Becker@dtsc.ca.gov)

15. Communications: All approvals and decisions of the Department made regarding such submittals and notifications shall be communicated to Respondent in writing by a Department Branch Chief, or his/her designee. No informal advice,

guidance, suggestions, or comments by the Department regarding reports, plans, specifications, schedules, or any other writings by Respondent shall be construed to relieve Respondent of its obligation to obtain such formal approvals as may be required.

16. Department Review and Approval: If the Department determines that any report, plan, schedule, or other document submitted for approval pursuant to this Interim Order fails to comply with this Interim Order or fails to protect public health or safety or the environment, the Department may return the document to Respondent with recommended changes and a date by which Respondent must submit to the Department a revised document incorporating the recommended changes.

17. Compliance with Applicable Laws: Respondent shall carry out this Interim Order in compliance with all local, State, and federal requirements, including but not limited to requirements to obtain permits and to assure worker safety.

18. Endangerment During Implementation: In the event that the Department determines that any circumstance or activity (whether or not pursued in compliance with this Interim Order) is creating an imminent or substantial endangerment to the health or welfare of people at the Facility or in the surrounding area or to the environment, the Department may order Respondent to stop further implementation for such period of time as needed to abate the endangerment. Any deadline in this Interim Order directly affected by a Stop Work Order under this section shall be extended for the term of such Stop Work Order.

19. Liability: Nothing in this Interim 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 Interim

Order. Notwithstanding compliance with the terms of this Interim Order, the Department may require Respondent to take further actions as are necessary to protect public health or welfare or the environment.

20. Facility Access: Access to the Facility shall be provided at all reasonable times to employees, contractors, and consultants of the Department, and any agency having jurisdiction. Nothing in this Interim Order is intended to limit in any way the right of entry or inspection that any agency may otherwise have by operation of any law. The Department and its authorized representatives may enter and move freely about all property at the Facility at all reasonable times for purposes including but not limited to: inspecting records, operating logs, and contracts relating to the Facility; reviewing the progress of Respondent in carrying out the terms of this Interim Order; and conducting such tests as the Department may deem necessary. Respondent shall permit such persons to inspect and copy all records, documents, and other writings, including all sampling and monitoring data, in any way pertaining to work undertaken pursuant to this Interim Order.

21. Sampling, Data, and Document Availability: Respondent shall permit the Department and its authorized representatives to inspect and copy all sampling, testing, monitoring, and other data generated by Respondent or on Respondent's behalf in any way pertaining to work undertaken pursuant to this Interim Order. Respondent shall allow the Department and its authorized representatives to take duplicates of any samples collected by Respondent pursuant to this Interim Order. Respondent shall maintain a central depository of the data, reports, certifications, and other documents prepared pursuant to this Interim Order, including the Interim Operating Conditions. All

such data, reports, certifications, and other documents shall be preserved by Respondent for a minimum of three years after the conclusion of all activities under this Interim Order. Respondent shall notify the Department in writing at least six months prior to destroying any documents prepared pursuant to this Interim Order. If the Department then requests that some or all of these documents be preserved for a longer period of time, Respondent shall either comply with that request or deliver the documents to the Department.

22. Government Liabilities: The State of California shall not be liable for injuries or damages to persons or property resulting from acts or omissions by Respondent or related parties specified in paragraph 28, in carrying out activities pursuant to this Interim Order, nor shall the State of California be held as a party to any contract entered into by Respondent or its agents in carrying out activities pursuant to this Interim Order.

23. Incorporation of Plans and Reports: All plans, schedules, and reports that require Department approval and are submitted by Respondent pursuant to this Interim Order are incorporated in this Interim Order upon written approval by the Department.

24. Extension Requests: If Respondent is unable to perform any activity or submit any document within the time required under this Interim Order, then Respondent may, prior to expiration of the time, request an extension of time in writing. The extension request shall include a justification for the delay.

25. Extension Approvals: If the Department determines that good cause exists for an extension, it will grant the request and specify in writing a new compliance schedule.

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PENALTIES AND OTHER PROVISIONS

26. Further/Additional Enforcement Actions: By entering this Interim Order, the Department is not presently resolving or agreeing to resolve the violations alleged in paragraph 3 above, and does not waive the right to take further enforcement actions with respect to any alleged violation, except to the extent provided in this Interim Order. The Department reserves its rights to pursue all of the following: penalties, operating conditions, injunctive measures, and/or a supplemental environmental project (SEP) in compliance with the Department's SEP Policy.

27. Penalties for Noncompliance: Failure to comply with the terms of this Interim 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.

28. Parties Bound: This Interim Order shall apply to and be binding upon Respondent and its officers, directors, 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 Interim Order.

29. Integration: This Interim Order constitutes the entire agreement between the Parties and may not be amended, supplemented, or modified, except as provided in this Interim Order.

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30. Effective Date: The "Effective Date" of this Interim Order is the date it is signed by the Department, after first being signed by Respondent.

Dated: Signed June 30, 2016

Original signed by George Adams

George Adams, President
for Respondent, SA Recycling, LLC

Dated: _____

Hansen Pang, Chief Investigator
Office of Criminal Investigations
Department of Toxic Substances Control

30. Effective Date: The "Effective Date" of this Interim Order is the date it is signed by the Department, after first being signed by Respondent.

Dated: _____

George Adams, President
for Respondent, SA Recycling, LLC

Dated: Signed June 30, 2016

Original signed by Hansen Pang
Hansen Pang, Chief Investigator
Office of Criminal Investigations
Department of Toxic Substances Control