

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Sims Recycling Solutions, Inc.
23270 Eichler Street, Unit A
Hayward, California 94545

ID No. CAL000302628

Respondent.

Docket HWCA 2014-6389

CONSENT ORDER

Health and Safety Code
Section 25187

1. INTRODUCTION

1.1. Parties. The California Department of Toxic Substances Control (Department) and Sims Recycling Solutions, Inc., a California corporation (Respondent) enter into this Consent Order (Order) and agree as follows:

1.2. Site. Respondent generates, handles, treats, and stores universal waste/hazardous waste at the following site: 23270 Eichler Street, Unit A, Hayward, California 94545 (Site).

1.3. Inspection. The Department inspected the Site on June 7 and 15, 2011.

1.4. Authorization Status. Respondent is authorized to handle and treat electronic devices and cathode ray tubes (CRTs) pursuant to California Code of Regulations (Cal. Code Regs.), title 22, section 66273.73, and to manage other universal waste pursuant to Cal. Code Regs., title 22, article 3 (sec. 66273.30 et seq.).

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.

2. VIOLATIONS ALLEGED

2.1. The Department alleges the following violations:

2.2. Respondent violated California Code of Regulations (Cal. Code Regs.), title 22, section 66273.36, in that on or about June 7, 2011, Respondent failed to initially train, and provide annual training, to all personnel who manage or who supervise those who manage universal wastes from offsite sources. Respondent also failed to maintain written training materials that include the required elements, such as identification of the hazards associated with the universal waste, the proper disposition of the universal waste, the proper procedures for responding to releases of the universal waste, and the proper labeling and tracking of the universal waste. This is a repeat violation from the 2010 and 2009 inspections.

Respondent did have training logs for modules titled "Introduction to SimsMMway Safety", "Safety Orientation" and "Battery Sorting", but these modules did not include all of the elements listed above.

Respondent provided an undated sign-up sheet for training on a module titled "Hazardous Waste", which nine personnel had signed, and a sign-up sheet (dated 1/19/2011) for the hazardous waste training module, which one person signed. However, eight personnel identified as warehouse workers had not signed either sign-up sheet. These include: Lawrence Cardwell, Jamal Gill, Taylor Fuapau, Daniel Torres, Tyrell Jones, Darrell Simmons, Cedric Banks and Reyes Hernandez.

Although the module titled "Hazardous Waste" (dated 12/9/08) included some information regarding universal waste, it did not include all of the elements described above, and also incorrectly stated that universal waste can be accumulated up to one year or longer. In response to previous violations, Respondent had revised the training module and developed one titled "Universal Waste-Batteries & Universal Waste Electronic Devices", originally dated 6/14/2010 and subsequently revised, but this updated module was not included in the training binder at the Hayward facility.

There was a module titled "Mercury Awareness", but there was no sign-up sheet showing any training received on this module.

2.3. Respondent violated Cal. Code Regs., title 22, section 66273.34(a), (c) and (d), in that on or about June 7, 2011, Respondent failed to label or mark each waste battery or container of waste batteries with the phrase "Universal Waste-Battery(ies)", failed to label each container of waste lamps with the phrase "Universal Waste-Lamps", and failed to label or mark each electronic device, or containers or pallets in or on which the electronic devices are contained, with the phrase: "Universal Waste-Electronic Device(s)".

A pallet containing approximately 6 boxes of waste batteries was not labeled; approximately ten containers of varying sizes containing waste batteries, and a pallet containing non-automotive waste lead-acid batteries in the battery sorting area, were labeled as "Universal Waste-Electronic Devices"; a wire basket and a plastic bucket containing broken and intact waste lamps on a pallet in the battery sorting area were not labeled as "Universal Waste-Lamps"; a Gaylord box containing broken and intact LCD fluorescent lamps, near the former bailer area, was labeled as "SB/CEW CRTs Outbound"; a Gaylord box containing waste fluorescent lamps, near the glass crushing unit, was labeled as "Universal Waste Fluorescent Tubes", five pallets of untested laptop computers in the testing/resale area were not labeled; a Gaylord box of LCD monitors marked as trash LCDs was not labeled, and a pallet of microwave ovens was labeled as "SB/CEW CRTs Outbound". Not labeling or mislabeling batteries and electronic devices is a repeat violation from the 2009 and 2010 inspections.

2.4. Respondent violated Cal. Code Regs., title 22, section 66273.35(b), in that on or about June 7, 2011, Respondent failed to mark or label containers or individual items of universal waste, or otherwise demonstrate the accumulation start date for approximately 30 laptop computers in the testing/resale area, for an unlabeled Gaylord box of trash LCD monitors, for a mislabeled Gaylord box of lamps, and for a mislabeled pallet of microwave ovens. Universal waste may be accumulated for up to one year. This is a repeat violation from the 2009 and 2010 inspections.

2.5. Respondent violated Cal. Code Regs., title 22, section 66273.33(b)(1) and (2), in that on or about June 7, 2011, Respondent did not immediately place in a closed

container broken lamps, or place intact lamps in closed containers that are capable of preventing breakage or leakage.

An open wire container and a plastic bucket of broken and intact waste lamps in the battery sorting area, a Gaylord box containing broken and intact waste LCD fluorescent lamps near the former bailer area, and a Gaylord box containing waste fluorescent lamps near the glass crushing unit, were not closed or capable of preventing breakage or leakage. In addition, a Gaylord box of fluorescent lamps in a storage area had a hole near the bottom of the box which would allow leakage.

3. SCHEDULE FOR COMPLIANCE

3.1. Respondent shall comply with the following:

3.1.1. Respondent has corrected the violations set forth above. Violation 2.2 was corrected on July 26, 2011; violation 2.3 was corrected on August 1, 2011; violation 2.4 was corrected on August 1, 2011; and, violation 2.5 was corrected on June 23, 2011.

3.1.2. 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.

4.4. 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 sum of \$14,500, of which \$14,500 is a penalty.

5.2. Payment of the total sum specified in paragraph 5.1 is due within 30 days from the effective date of this Order.

5.3. Respondent's check(s) shall be made payable to Department of Toxic Substances Control, shall identify the Respondent and Docket Number, as shown in the caption of this case, 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:

Maria Soria, Branch Chief

Berkeley/Clovis Enforcement Branch
Department of Toxic Substances Control
700 Heinz Avenue
Berkeley, California 94701-2721

and

Joseph Smith, Senior Staff Counsel
Office of Legal Affairs
Department of Toxic Substances Control
1001 I Street
P.O. Box 806
Sacramento, California 95812-0806

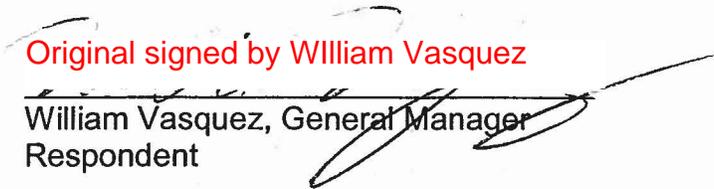
5.4. If Respondent fails to make payment as provided above, Respondent agrees to pay interest at the rate established pursuant to Health and Safety Code, section 25360.1, and to pay all costs incurred by the Department in pursuing collection including attorney's fees.

6. EFFECTIVE DATE

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

Dated: 2/15/2014

Original signed by William Vasquez



William Vasquez, General Manager
Respondent

Dated: 2/10/14

Original signed by Maria Soria

Maria Soria, Branch Chief
Department of Toxic Substances Control