

STATE OF CALIFORNIA  
ENVIRONMENTAL PROTECTION AGENCY  
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

WM Curbside, LLC  
500 S. Jefferson Street  
Placentia, California 92870-6617

ID No. CAL000358089

Respondent.

Docket HWCA 20136189

CONSENT ORDER

Health and Safety Code  
Section 25187

1. INTRODUCTION

1.1. Parties. The California Department of Toxic Substances Control (Department) and WM Curbside, LLC, a Delaware corporation (Respondent) enter into this Consent Order and agree as follows:

1.2. Site. Respondent generated, handled and stored hazardous waste as a Generator and a permitted Door-to-Door Household Hazardous Waste Collection Program from its exempt transfer facility located at 500 S. Jefferson Street, Placentia, California 92870-6617 (Site).

1.3. Inspections. The Department inspected the Site on March 30, 2012 and April 2-3, 2012.

1.4. Authorization Status. Respondent operates as a Generator of hazardous waste under EPA Identification number CAL000358089. Respondent is also a registered hazardous waste transporter operating as a contractor managing various Door-to-Door Household Hazardous Waste Collection Programs in different

jurisdictions under Permit-by-Rule (PBR) authority granted to various cities and counties. Respondent collects household hazardous wastes directly from residential homes.

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 specific 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 concerning other violations.

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

1.8. No Admissions. By entering into this Order, Respondent does not admit the violations as alleged in Section 2 below.

## 2. VIOLATIONS ALLEGED

2.1. The Department alleges the following violations:

2.1.1. Respondent violated Cal. Code Regs., title 22, section 66263.18(b)(1), in that on or about March 30, 2012, the Department observed a drum of "paint related material" dated March 16, 2012, stored at Respondent's exempt transfer facility located at 500 S. Jefferson Street, Placentia, CA 92870-

6617 without a permit beyond the 10-day storage limit applicable to an exempt transfer facility. Respondent was acting as a registered hazardous waste transporter operating a Door-to-Door Household Hazardous Waste Collection Program as a contractor for various public agencies under PBR authority.

2.1.2. Respondent violated Cal. Code Regs., title 22, section 66263.18(a), in that on or about March 30, 2012, during the Department's inspection of Respondent's exempt transfer facility, Respondent admitted that it arranged with a used oil transporter, to pick-up used oil and antifreeze hazardous wastes from Respondent's exempt transfer facility by pumping the waste out of containers into All Phase's tanker truck. As such, Respondent failed to operate within the packaging and handling limitations applicable to an exempt transfer facility. A review of manifests revealed that this violation occurred on at least fifteen (15) occasions in year 2011 and three (3) occasions in early 2012.

2.1.3. Respondent violated Health and Safety Code section 25201(a), in that on or about March 30, 2012, the Department observed four unlabeled boxes of household hazardous waste at Respondent's exempt transfer facility. Respondent explained that under its PBR authority as a Door-to-Door Household Hazardous Waste Collection Program it regularly designates household hazardous waste received from household generators as "reusable household hazardous product or material" and ships it without a hazardous waste manifest to a facility it owns in Denver to offer to consumers in a reuse program in Colorado. It is the Department's position that a Door-to-Door Household Hazardous Waste Collection Programs' PBR authority does not allow the operation of a materials exchange

program.

### 3. SCHEDULE FOR COMPLIANCE

3.1. Respondent shall comply with the following:

3.1.1. Effective immediately, Respondent shall no longer store hazardous wastes it picks up from household generators at its exempt transfer facility beyond the 10-day storage limit applicable to an exempt transfer facility unless and until Respondent obtains PBR authority to operate a Permanent Household Hazardous Waste Collection Facility (PHHWCF) at its facility located at 500 S. Jefferson Street, Placentia, California 92870-6617.

3.1.2. Effective immediately, Respondent shall no longer operate outside of the packaging and handling limitations applicable to an exempt transfer facility by pumping antifreeze and/or used oil into a tanker truck from its exempt transfer facility unless and until Respondent obtains PBR authority to operate a PHHWCF at its facility located at 500 S. Jefferson Street, Placentia, California 92870-6617. (Cal. Code of Regs., tit. 22, div. 4.5, §§ 67450.25(a)(4) and 67450.4(e)(3).)

3.1.3. Effective immediately, Respondent shall no longer operate a materials exchange program under its Door-to-Door Household Hazardous Waste Collection Program PBR authority. Unless and until Respondent obtains PBR authority to operate a PHHWCF at its facility located at 500 S. Jefferson Street, Placentia, California 92870-6617, Respondent agrees that it will not operate a materials exchange program. Once Respondent obtains authority to operate as a PHHWCF at that location, if Respondent chooses to send "reusable household

hazardous product or material" out of state to its Denver, Colorado facility to offer in a reuse program, Respondent will (a) transport the "reusable household hazardous product or material" out of California using a Uniform Hazardous Waste Manifest; and (b) provide the Department with initial documentation providing proof that Respondent has notified the City and County of Denver that it will be manifesting "reusable household hazardous product or material" to its Denver, Colorado facility to offer in a reuse program there.

3.2. Submittals: All submittals from Respondent pursuant to this Consent Order shall be sent simultaneously to:

Larry Stuck, Senior Environmental Scientist  
Criminal Investigations, Office of Legal Affairs  
Department of Toxic Substances Control  
9211 Oakdale Avenue  
Chatsworth, CA 91311

Carmelita Lampino, Branch Chief  
Cypress/San Diego Enforcement Branch  
Enforcement and Emergency Response Program  
Department of Toxic Substances Control  
5796 Corporate Avenue  
Cypress, CA 90630-4732

Jennifer Connor, Senior Staff Counsel  
Office of Legal Counsel  
Department of Toxic Substances Control  
P.O. Box 806, MS-23A  
Sacramento, CA 95812-0806

#### 4. PENALTIES

4.1. Within 30 days of the effective date of this Consent Order, Respondent shall pay the Department Thirty-One Thousand and Sixty Dollars (\$31,060.00) in administrative penalties. Respondent's check shall be made payable to the

"Department of Toxic Substances Control" and the check shall reference the Docket Number of this Consent Order and the check shall be delivered 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 shall be sent to:

Larry Stuck, Senior Environmental Scientist  
Criminal Investigations, Office of Legal Affairs  
Department of Toxic Substances Control  
9211 Oakdale Avenue  
Chatsworth, CA 91311

Carmelita Lampino, Branch Chief  
Cypress/San Diego Enforcement Branch  
Enforcement and Emergency Response Program  
Department of Toxic Substances Control  
5796 Corporate Avenue  
Cypress, CA 90630-4732

Jennifer Connor, Senior Staff Counsel  
Office of Legal Counsel  
Department of Toxic Substances Control  
P.O. Box 806, MS-23A  
Sacramento, CA 95812-0806

## 5. OTHER PROVISIONS

5.1. Additional Enforcement Actions: By agreeing to this Consent Order, the Department does not waive the right to take further enforcement actions, except to the extent provided in this Consent Order.

5.2. Penalties for Noncompliance: Failure to comply with the terms of this Consent Order may subject Respondents to civil penalties and/or costs incurred by the Department or other government agencies as a result of such failure, as

provided by Health and Safety Code section 25188 and other applicable provisions of law.

5.3. Parties Bound: This Consent Order shall apply to and be binding upon Respondents and its officers, directors, agents, receivers, trustees, employees, contractors, consultants, 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 Consent Order.

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

5.5. Signatories: Each undersigned representative certifies that he or she is fully authorized to enter into this Consent Order.

5.6. Effective Date: The effective date of this Consent Order is the date it is signed by the Department.

Dated: 10/25/2013 By William K. Caesar  
William K. Caesar  
President  
WM Curbside, LLC

Dated: 10/28/2013 By Larry Stuck  
Larry Stuck  
Senior Environmental Scientist  
Criminal Investigations - Chatsworth  
Office of Legal Affairs  
Department of Toxic Substances Control