

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Docket HWCA 20146989

Waste Tire Products
3820 Highway 99
Orland, California 95963

CONSENT ORDER

Health and Safety Code
Section 25187

ID No. CAL000267271

Respondent.

1. INTRODUCTION

1.1. Parties. The California Department of Toxic Substances Control (Department) and Waste Tire Products (WTP) (Respondent) enter into this Consent Order (Order) and agree as follows:

1.2. Site. Respondent is a multi-material recycling facility and has operated as an electronic waste (E-waste) recycler at 3820 Highway 99 in Orland, California since 2005. The facility collects and recycles universal waste electronic devices (EDs) and devices with cathode ray tubes (CRTs).

1.3. Inspection. The Department inspected the Site on March 13, 2014.

1.4. Authorization Status. Respondent is authorized by Cal Recycle to dismantle electronic devices into their respective components using manual methods and hand tools or mechanical separation of parts, including CRT yoke removal by manually releasing the vacuum without breaking CRT glass.

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 provision(s) 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 Code of Regulations, title 22, section 66273.37(a), in that Respondent failed to immediately contain all releases of universal waste and residues to the environment.

2.1.2. Respondent violated California Code of Regulations, title 22, sections 66273.33.5(a)(1)(B)(1), 66273.33.5(a)(1)(B)(2), and 66273.33(b)(1), in that Respondent failed to contain electronic devices in a manner that prevents breakage and release of their components to the environment and contain universal waste lamps in a closed, structurally sound container that does not show evidence of leaks or damage.

2.1.3. Respondent violated California Code of Regulations, title 22, sections 66273.34(d) & (e), 66273.34(c), and 66273.35(b) in that Respondent failed to label or mark each electronic device, or container, or pallet in or on which EDs are contained, with the phrase, "Universal Waste – Electronic Devices," and failed to label or mark each CRT or container, or pallet in or on which CRTs are contained, with the phrase, "Universal Waste – CRTs." Respondent also failed to label universal waste lamps with the phrase, "Universal Waste – Lamps," and failed to demonstrate the length of time that universal waste lamps and EDs had been accumulating onsite.

2.1.4. Respondent violated California Code of Regulations, title 22, section 66273.75(a)(3), in that Respondent failed to conduct treatment activities of EDs over a containment device (Tray, box, workbench, table, or enclosed machine).

3. SCHEDULE FOR COMPLIANCE

3.1. Respondent shall comply with the following:

3.1.1. Respondent has corrected the violations set forth above.

3.1.2. Respondent shall operate hereafter in a manner that shall prevent recurrences of the violations cited herein.

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

3.2. Notices and Submittals. All submittals from Respondent pursuant to this

Order shall be sent to:

To:

Sangat Kals, Ph.D.
Senior Environmental Scientist (Supervisory)
Enforcement and Emergency Response Division
Department of Toxic Substances Control
8800 Cal Center Drive
Sacramento, California 95826-3200

3.3. Communications. All approvals and decisions of the Department made regarding such submittals and notifications shall be communicated to Respondent in writing by the appropriate Environmental Program Manager or his/her designee. No informal advice, guidance, suggestions, or comments by the Department shall relieve Respondent of its obligation to obtain any required formal approvals.

3.4. Department Review and Approval. If the Department determines that any report, plan, schedule, or other document submitted for approval pursuant to this Order fails to comply with this Order or fails to protect public health or safety or the environment, the Department may:

- a. Modify the document and approve the document as modified; or
- b. 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.

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

3.6. Endangerment During Implementation. (Reserved, not applicable)

3.7. Site Access. Access to the Site shall be provided at all reasonable times to employees, contractors, and consultants of the Department, and any other agency having jurisdiction. The Department and its authorized representatives shall have the authority to enter and move freely about all property at the Site at all reasonable times for purposes including but not limited to: inspecting records, operating logs, and contracts relating to the Site; reviewing the progress of Respondent in carrying out the terms of this Order; and conducting such tests as the Department may deem necessary. Nothing in this 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.

3.8. Incorporation of Plans and Reports. All plans, schedules, and reports that were submitted by Respondent pursuant to the violations set forth above and/or this schedule for compliance and were approved by the Department are hereby incorporated into this Order.

3.9. Compliance with Waste Discharge Requirements. Respondent shall comply with all applicable waste discharge requirements issued by the State Water Resources Control Board or a California regional water quality control board.

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.

4.5. Privileges. Nothing in this Order shall be construed to require any party to waive any privilege, including without limitation, attorney-client and attorney work-product. However, the assertion of any privilege shall not relieve any party of its obligations under this Order.

4.6. Time Periods. "Days" for the purpose of this Order means calendar days.

5. PENALTY

5.1. Respondent shall pay the Department the total sum of \$15,000.00.

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 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:

Sangat Kals, Ph.D.
Senior Environmental Scientist (Supervisory)
Enforcement and Emergency Response Division
Department of Toxic Substances Control
8800 Cal Center Drive
Sacramento, California 95826-3200

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: 11/29/14

Respondent, Waste Tire Products

By Original Signed by W. Tasto

William H. Tasto

Title _____

Dated: 12/9/2014

Original Signed by S. Kals

SANGAT KALS, PH.D.
SENIOR ENVIRONMENTAL SCIENTIST (SUPERVISORY)
ENFORCEMENT AND EMERGENCY RESPONSE
DIVISION
DEPARTMENT OF TOXIC SUBSTANCES CONTROL
8800 CAL CENTER DRIVE
SACRAMENTO, CALIFORNIA 95826-3200