



STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

013

JOHN ELIAS BALDACCI  
GOVERNOR

BETH NAGUSKY  
ACTING COMMISSIONER

To: Board of Environmental Protection  
From: Chris Redmond, Hazardous Waste Enforcement Unit, Bureau of Remediation and Waste Management (BRWM)  
Division of Oil and Hazardous Waste Facilities Regulation  
Date: December 2, 2010  
RE: Administrative Consent Agreement -  
eWaste Recycling Solutions, LLC, Auburn, Maine

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Statutory and Regulatory Reference: The Hazardous Waste Management Rules, Chapters 850 through 857 adopted pursuant to the Maine Hazardous Waste, Septage and Solid Waste Management Act, 38 M.R.S.A. Section 1301 et seq., specifies certain requirements for the management, storage, treatment and disposal of hazardous waste.

Location: eWaste Recycling Solutions, LLC, Auburn, Maine

Description: eWaste Recycling Solutions, LLC ("eWaste") has entered into the attached Consent Agreement as proposed by Department staff in order to resolve violations of Maine's Hazardous Waste Management Rules. The majority of the hazardous waste violations were identified during an inspection conducted at eWaste on December 21<sup>st</sup> and 22<sup>nd</sup>, 2009. One additional violation of a compliance condition of Department License #O-000268-RB-A-N was also identified. The violations identified include the following: 1) Treating or disposing of universal waste on-site, 2) Establishing and operating the facility as a hazardous waste facility without a license to do so, 3) Failure to immediately contain and transfer all releases of wastes resulting from broken universal wastes, 4) Failure to handle waste resulting from the intentional breakage of Cathode Ray Tubes ("CRTs") as Hazardous Waste, 5) Failure to mark containers of universal waste with the type of waste, 6) Failure to store universal wastes in closed containers, 7) Failure to store universal waste containers with adequate aisle space, 8) Failure to conduct and document weekly universal waste storage area inspections, 9) Failure to properly track universal waste via a uniform Bill of Lading, 10) Failure to submit quarterly universal waste reports to the Department, 11) Failure to maintain documentation demonstrating that employees have been trained, and 12) Failure to comply with the conditions of a Department issued license.

To resolve these violations, eWaste has ceased treating universal waste onsite without a license, obtained a Department license to demanufacture electronic wastes, contained releases of broken universal wastes, managed the broken universal waste as a hazardous

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waste, cleaned the floor area where broken universal waste was released, stored universal waste in closed and properly labeled containers, provided adequate aisle space, begun conducting daily inspections, submitted quarterly reports, provided and documented employee training, submitted materials to comply with license conditions, and has agreed to comply with the hazardous waste management laws. In addition, eWaste has agreed to pay to the Maine Hazardous Waste Fund a penalty of twenty-seven thousand five hundred dollars (\$27,500.00) as specified in the Agreement. eWaste has paid the first installment of the payment, as specified in the Agreement.

The Maine Hazardous Waste Fund is established by statute to provide the Department with the capability for prompt and effective response to spills and unlicensed discharges of hazardous waste, and for the inspection or supervision of hazardous waste handlers and related hazardous waste activities. Pursuant to statute, all fees, penalties, interest, and other charges relative to those activities must be credited to the Maine Hazardous Waste Fund.

eWaste has agreed to pay the above penalty which was based upon the type of violations involved, the amount of waste involved, the relative extent of deviation from the requirements, and any economic benefit realized. In this specific case, no economic benefit was realized. eWaste committed several of the violations despite being advised in a meeting with the Department several months prior that a license would be required for the proposed activities, namely demanufacturing electronic wastes and breaking CRT glass.

Department Recommendation:

The Department recommends that the Board accept the Consent Agreement as part of its Consent Agenda to resolve the issues addressed.

Staff Contact persons:

Chris Redmond, Hazardous Waste Enforcement Unit, BRWM

Estimated time of presentation: No presentation; Consent agenda item



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015

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ACTING COMMISSIONER

IN THE MATTER OF:

EWASTE RECYCLING SOLUTIONS, LLC ) ADMINISTRATIVE CONSENT
100 BARK MULCH DRIVE, BUILDING 3, AUBURN ) AGREEMENT
ANDROSCOGGIN COUNTY, MAINE ) (38 M.R.S.A. § 347-A)
HAZARDOUS WASTE ACTIVITIES )

This Agreement, by and among eWaste Recycling Solutions, LLC, the Maine Department of Environmental Protection ("Department"), and the Maine Office of the Attorney General, is entered into pursuant to the laws concerning the Department's Organization and Powers, 38 M.R.S.A. § 347-A(1).

THE PARTIES AGREE AS FOLLOWS:

- 1. eWaste Recycling Solutions, LLC ("eWaste") is a Maine limited liability company that operates a universal waste consolidation business with its principal location at 100 Bark Mulch Drive, Building 3, in Auburn, Maine. William Dumas is a member of eWaste.
2. The violations described herein occurred at 100 Bark Mulch Drive, Building 3, in Auburn, Maine.
3. eWaste is a consolidation facility for universal hazardous waste including, but not limited to, universal hazardous waste mercury-containing lamps, PCB-containing ballasts, and heavy metal containing batteries and cathode ray tubes ("CRT's"). As a result, eWaste is subject to Maine's Hazardous Waste, Septage and Solid Waste Management Act ("Act") 38 M.R.S.A. §§ 1301 through 1319-Y and the Department's Hazardous Waste Management Rules, 06-096 CMR 850-857 ("Rules"). In addition, on July 15, 2008, eWaste notified the U.S. Environmental Protection Agency ("US EPA") of its regulated waste activity and was assigned the US EPA hazardous waste generator identification number MER000506766. On July 27, 2010 eWaste was issued Department License #O-000268-RB-A-N to demanufacture certain universal and electronic wastes.
4. On December 21st and 22nd, 2009, in response to a complaint, Department staff conducted an inspection of eWaste at the location described in Paragraph 2 of this Agreement to assess compliance with the hazardous waste management standards of the Act and Rules. The inspection revealed the following violations:

A. Treating or disposing of universal waste on-site, in violation of the Rules, 06-096 CMR 850 (3)(A)(13)(g)(ii), which incorporates by reference 06-096 CMR 850 (3)(A)(13)(c)(i).

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Between December 15, 2009 and December 21, 2009, eWaste treated universal wastes by demanufacturing approximately six hundred nine (609) televisions and computer monitors, weighing a total of approximately eighteen thousand (18,000) pounds. eWaste broke the resulting CRT glass into smaller pieces using hammers and other tools generating approximately ten thousand (10,000) pounds of hazardous waste broken CRT glass. The treatment of universal waste, including intentional breaking of CRTs, by a consolidation facility is prohibited.

- B. Establishing and operating the facility as a hazardous waste facility without a license to do so, in violation of the Rules, 06-096 CMR 856 (4)(A).

eWaste operated its facility as a hazardous waste facility without a license to do so. Specifically, between December 15, 2009 and December 21, 2009, eWaste demanufactured televisions and computers containing CRTs without a license to do so. eWaste conducted this activity despite a meeting in September 2009 between eWaste and the Department during which the Department explained the licensing requirements for demanufacturing electronic units containing universal wastes.

- C. Failure to immediately contain and transfer all releases of wastes resulting from broken universal wastes other than incidental breakage into an appropriate container, in violation of the Rules, 06-096 CMR 850 (3)(A)(13)(g)(ii), which incorporates by reference 06-096 CMR 850 (3)(A)(13)(e)(vii).

A portion of the broken CRT glass referenced in Paragraph 4(A) of this Agreement was observed on the floor of the eWaste facility.

- D. Failure to determine by testing or handle, as hazardous waste, clean up residues resulting from spills or leaks from events other than incidental breakage of lamps or CRTs, in violation of the Rules, 06-096 CMR 850 (3)(A)(13)(g)(ii), which incorporates by reference 06-096 CMR 850 (3)(A)(13)(e)(viii).

At the time of inspection eWaste was not managing the broken CRT glass described in Paragraph 4(A) of this Agreement as a hazardous waste.

- E. Failure to mark containers of universal waste with the type of waste, in violation of the Rules, 06-096 CMR 850 (3)(A)(13)(g)(ii), which incorporates by reference 06-096 CMR 850 (3)(A)(13)(e)(xxii)(e).

Two 30-gallon containers of universal waste CRT glass generated through incidental breakage were not labeled with the words "Waste Cathode Ray Tube". Additionally, several loose CRTs were observed in the area of the facility not

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associated with CRT processing. The CRTs were not stored in containers or labeled.

- F. Failure to store universal wastes in closed containers, in violation of the Rules, 06-096 CMR 850 (3)(A)(13)(g)(ii), which incorporates by reference 06-096 CMR 850 (3)(A)(13)(e)(vi).

One of the 30-gallon containers described in Paragraph 4(E) of this Agreement was not closed. Additionally, several loose CRTs were observed in an area of the facility not associated with active CRT processing. The CRTs were not stored in containers or labeled.

- G. Failure to store universal waste containers with adequate aisle space to be able to inspect the containers and determine the accumulation start dates and container full dates, in violation of the Rules, 06-096 CMR 850 (3)(A)(13)(g)(ii) which incorporates by reference 06-096 CMR 850 (3)(A)(13)(e)(xiv).

Numerous containers of universal waste were stored without adequate aisle space.

- H. Failure to conduct and document weekly universal waste storage area inspections, in violation of the Rules, 06-096 CMR 850 (3)(A)(13)(g)(ii), which incorporates by reference 06-096 CMR 850 (3)(A)(13)(e)(x).

eWaste failed to conduct and document weekly inspections of their universal waste storage area.

- I. Failure to properly track universal waste via a uniform Bill of Lading in accordance with the Rules, 06-096 CMR 857 6(B), in violation of the Rules, 06-096 CMR 850 (3)(A)(13)(g)(ii), which incorporates by reference 06-096 CMR 850 (3)(A)(13)(e)(iii).

eWaste failed to properly complete certain uniform Bills of Lading for shipments of universal waste. Deficiencies on Bills of Lading included: missing item counts or number of containers, lack of line item descriptions, and incomplete generator information.

- J. Failure to submit quarterly universal waste reports to the Department, in violation of the Rules, 06-096 CMR 850 (3)(A)(13)(g)(ii), which incorporates by reference 06-096 CMR 850 (3)(A)(13)(xx).

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eWaste has failed to submit quarterly universal waste reports to the Department for each of the calendar quarters since eWaste's notification as a universal waste consolidator in 2008.

K. Failure to maintain documentation demonstrating that employees have been trained on proper universal waste handling and emergency procedures, in violation of the Rules, 06-096 CMR 850 (3)(A)(13)(g)(ii), which incorporates by reference 06-096 CMR 850 (3)(A)(13)(e)(ix).

eWaste could not provide documentation demonstrating that employees had received the required training. eWaste indicated that the training had been provided but not documented for all employees.

5. On April 9, 2010, the Department issued a Notice of Violation (NOV) to eWaste for the activities described in Paragraph 4 of this Agreement, in accordance with 38 M.R.S.A. § 347-A(1)(B). In the NOV, the Department requested that eWaste perform corrective actions and respond to the Department in writing within thirty (30) days describing the corrective actions undertaken to address each of the violations cited. Specific corrective actions requested by the Department include, but are not limited to, the following: Cease demanufacturing of CRTs and intentional breaking of CRT glass, label and close containers of universal waste, provide adequate aisle space for inspection of universal waste, submit quarterly reports, provide and document employee training, conduct and document weekly inspections, and reimburse the Department for three hundred twenty-eight dollars (\$328.00) for sampling costs incurred by the Department. Prior to issuance of the NOV, eWaste, at the direction of the Department, cleaned the floor area twice where demanufacturing took place. The Department collected wipe samples of the floor surface to assess contamination levels. Based on the results of the Department's wipe samples, eWaste's first attempt to clean the floor area was unsuccessful but its second attempt was successful.
6. On May 12, 2010, eWaste submitted to the Department a written response to the NOV issued on April 9, 2010, indicating the corrective actions undertaken to address the violations. The corrective actions included, but are not limited to, the following: Ceased demanufacturing of CRTs and intentional breaking of CRT glass, containerized all broken CRT glass and cleaned floor area, labeled and closed containers of universal waste, provided adequate aisle space for inspection of universal waste, submitted quarterly reports, provided and documented employee training, began conducting and documenting weekly inspections, and reimbursed the Department three hundred twenty-eight dollars (\$328.00) associated with sampling costs incurred by the Department.
7. Subsequent to the July 27, 2010 issuance of Department License #O-000268-RB-A-N, Department staff conducted a compliance review of the Conditions associated with the License. The license compliance review revealed the following:

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A. Failure to comply with Condition #11 of Department License #O-000268-RB-A-N.

Department License #O-000268-RB-A-N is an abbreviated license issued to the facility to demanufacture certain universal and electronic wastes. Condition #11 of the license states, in pertinent part, that “Within 60 days from the beginning of operations, eWaste shall submit to the Department the names, addresses, and contact information of all recyclers to which eWaste ships demanufactured electronic waste...” eWaste notified the Department that operations had begun on August 6, 2010 but failed to provide the Department with the required list of recyclers by October 5, 2010, which was the due date sixty (60) days from the start of operations.

On October 12, 2010 eWaste submitted the list of recyclers required by Condition #11 of Department License #O-000268-RB-A-N.

- 8. On October 19, 2010, the Department issued an NOV to eWaste for the activities described in Paragraph 7 of this agreement in accordance with 38 M.R.S.A. § 347-A(1)(B). In the NOV, the Department requested that eWaste perform corrective actions and respond to the Department in writing within thirty (30) days describing the corrective actions undertaken to address the violation cited. Specific corrective actions requested by the Department include, but are not limited to, the following: compliance with the conditions of Department License #O-000268-RB-A-N including the timely submittal of submissions required by the License.
- 9. Pursuant to 38 M.R.S.A. §§ 341-D(6)(C) and 347-A(1)(A)(1), administrative consent agreements must be approved by the Board of Environmental Protection (“Board”), which is part of the Department.
- 10. This Agreement shall become effective only if it is approved by the Board and the Office of the Attorney General.
- 11. To resolve the violations referenced in Paragraphs 4 and 7 of this Agreement, eWaste agrees to:
  - A. Pay to the Treasurer, State of Maine, c/o Hazardous Waste Fund, a civil monetary penalty of twenty-seven thousand five hundred dollars (\$27,500) in six (6) payments. The first payment shall be in the amount of five thousand dollars (\$5,000.00) and is due upon signing of this Agreement. Five (5) additional payments shall be in the amount of four thousand five hundred dollars (\$4,500.00) and shall be due on or before the first day of each month for the five (5) consecutive months subsequent to the first payment. In the

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event of any default in the above payment schedule, including failure to make payment on the due date, a late fee of fifty dollars (\$50) per day calculated from the due date of the missed payment shall be added to the balance due and shall accrue daily until any missed payment(s) and late fee(s) are paid in full. In addition, if any payment is late, the full outstanding balance of the unpaid penalty is immediately due and payable upon demand by the Department.

- 12. The Department and Office of the Attorney General grant a release of their causes of action against eWaste for the specific violations listed in Paragraphs 4 and 7 of this Agreement on the express condition that all actions listed in Paragraph 11 of this Agreement are completed in accordance with the express terms and conditions of this Agreement, except that no release is granted for any contamination of surface waters, ground waters, soils, sediment or ambient air as a result of the violations set forth in this Agreement. This Agreement shall not prohibit the Department from requiring additional corrective measures or other remedial actions if the Department determines that such action is necessary to protect public health, safety, or the environment. This limited release shall not become effective until all requirements of this Agreement are satisfied.
- 13. Non-compliance with this Agreement voids the release set forth in Paragraph 12 of this Agreement and may lead to an enforcement action pursuant to 38 M.R.S.A. §§ 347-A(1)(A), 347-A(5), or 348, as well as pursuit of other remedies.
- 14. Actions taken pursuant to this Agreement shall be completed in accordance with the requirements of all applicable local, state, and federal laws, rules, and orders including but not limited to licensing requirements.
- 15. The provisions of this Agreement shall apply to, and be binding on, the parties and their officers, agents, successors, and assigns.

IN THE MATTER OF:

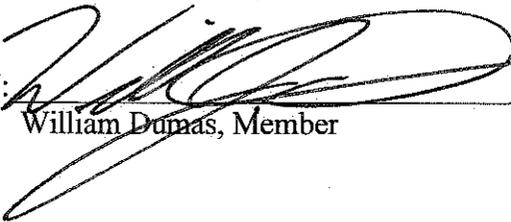
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IN WITNESS WHEREOF the parties hereto have executed this Agreement consisting of seven (7) pages:

eWaste Recycling Solutions, LLC

BY:  DATE: 11/1/10  
William Dumas, Member

MAINE BOARD OF ENVIRONMENTAL PROTECTION

BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
Susan M. Lessard, Chair

MAINE OFFICE OF THE ATTORNEY GENERAL

BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
Peter LaFond, Assistant Attorney General

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