

In re Advanced Recovery, Inc.
Docket No. RCRA-02-2013-7106

CERTIFICATE OF SERVICE

I certify that I have this day caused to be sent the foregoing "JOINT STIPULATIONS," executed and dated August 22, 2014, in the above-referenced proceeding in the following manner to the respective addressees listed below:

Original¹ and one copy by
Pouch Mail:

Sybil Anderson, Headquarters Hearing Clerk
Office of Administrative Law Judges
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Mail Code 1900R
Washington, DC 20460-2001

Copy by Pouch Mail:

Honorable Christine D. Coughlin
Administrative Law Judge
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Mail Code 1900R
Washington, DC 20460

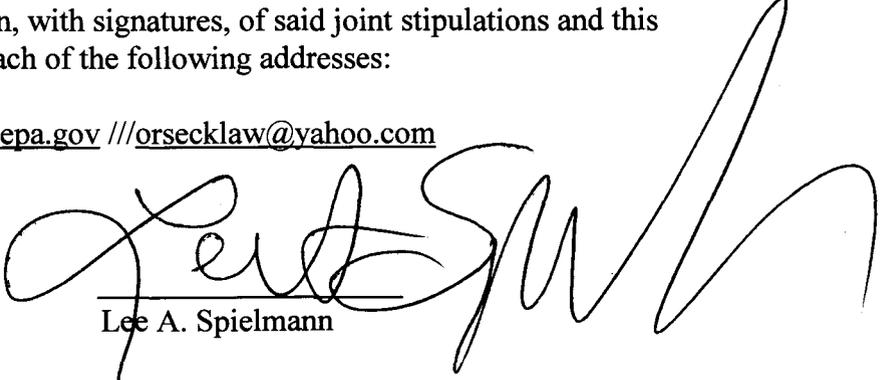
Copy by First Class Mail:

Kirk O. Orseck, Esq.
Orseck Law Offices PLLC
1924 State Route 52
P.O. Box 469
Liberty, New York 12754

I additionally certify that a PDF version, with signatures, of said joint stipulations and this certificate, was electronically sent to each of the following addresses:

anderson.sybil@epa.gov /// oaljfiling@epa.gov /// orsecklaw@yahoo.com

Dated: August 22, 2014
New York, New York



Lee A. Spielmann

¹ The signatures contained on the "original" version of enclosed document constitute original signatures electronically transmitted.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 2

In the Matter of:

Advanced Recovery, Inc.,

Respondent.

Proceeding Under Section 3008 of the
Solid Waste Disposal Act, as amended.

Hon. Christine D. Coughlin, Presiding Officer

Docket No. RCRA-02-2013-7106

JOINT STIPULATIONS

Pursuant to the June 11, 2014, order of this Court, "NOTICE OF HEARING AND SCHEDULING ORDER," the parties hereto, by their respective counsel, hereby agree and stipulate to, and accept, the following joint stipulations:

I. Stipulated Facts

The following facts have been established and are to be deemed admitted into the record of the hearing to be held in and for the above-referenced administrative proceeding and scheduled to commence on September 23, 2014:

1. Respondent in the administrative proceeding before the United States Environmental Protection Agency ("EPA"), said proceeding bearing Docket Number RCRA-02-2013-7106, is Advanced Recovery, Inc.
2. Respondent is a for-profit corporation organized pursuant to, and existing since 1991, under, the laws of the State of New Jersey.
3. Since 1991, Respondent has operated a business engaged in the recycling of electronic waste, often referred to as "e-waste," including spent fluorescent light bulbs and cathode ray tubes.
4. Cathode ray tubes ("CRTs") constitute the video display components of electronic devices, most commonly older computer monitors or older television monitors.
5. Since 2008, Respondent has owned and operated (and continues to own and operate) a facility, the address of which is 41 Mechanic Street, Port Jervis, New York 12771 ("Respondent's facility").

6. Since 2008, Respondent has conducted its recycling of electronic waste business at Respondent's facility.

7. In carrying out its business activities, Respondent has generated (and continues to generate) "solid waste" (as that term is defined in 6 N.Y.C.R.R. § 371.1(c)).¹

8. In carrying out its business activities, Respondent, through at least July 25, 2012, generated "hazardous waste" (as that term is defined in 6 N.Y.C.R.R. § 371.1(c)).

9. On or about May 28, 2008, Respondent submitted to EPA a Section 3010 Notification of Regulated Waste Activity in which it informed EPA of its hazardous waste activities at Respondent's facility.

10. In response to Respondent's aforementioned submission (paragraph 9, above), EPA assigned Respondent with EPA Identification Number NYR000157636.

11. On or about July 25, 2012, a duly designated representative of EPA conducted an inspection of Respondent's facility in order to determine Respondent's compliance with the provisions of the Solid Waste Disposal Act, as amended by, *inter alia*, the Resource Conservation and Recovery Act and the Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. § 6901 *et seq.* (hereinafter, collectively referred to as "RCRA"), and the regulations implementing RCRA.

12. The aforementioned EPA inspection (paragraph 11, above) was conducted pursuant to Section 3007 of RCRA, 42 U.S.C. § 6927 (hereinafter "EPA's inspection").

13. As of the date of the EPA inspection, for at least one month, Respondent generated 1,000 kilograms or greater of hazardous waste per calendar month.

14. On or about February 14, 2013, EPA issued to Respondent, pursuant to Section 3007 of RCRA, 42 U.S.C. § 6927, a Notice of Violation ("NOV") and a Request for Information Letter ("IRL") regarding Respondent's handling and managing of hazardous waste at Respondent's facility.

15. On or about March 18, 2013, Respondent submitted its response to EPA's NOV/IRL.

16. Respondent's aforementioned (paragraph 15, above) response to EPA's NOV/IRL was prepared by an official of Respondent acting within the scope of his authority.

17. As of the time of EPA's inspection, and for some time prior, Respondent, at

¹ All terms defined by reference to statutory and/or regulatory provisions are subsequently used as so defined.

Respondent's facility, was using a drum top bulb crusher to crush the spent fluorescent light bulbs Respondent had accepted.

18. Fluorescent light bulbs contain mercury vapor which can be released into the surrounding environment when such bulbs are crushed.

19. Respondent shipped a total of 11 drums of crushed and broken fluorescent light bulbs off-site to Northeast Lamp Recycling, Inc. (also known as NLR, Inc.) in East Windsor, Connecticut on August 28, 2012.

20. The weight of the aforementioned (paragraph 19, above) of the crushed and broken fluorescent light bulbs in said 11 drums was 6,151 pounds.

21. The aforementioned (paragraphs 19 and 20, above) off-site shipment was accompanied by a Uniform Hazardous Waste Manifest bearing Manifest Tracking Number 008951658JJK.

22. The aforementioned (paragraph 21, above) Hazardous Waste Manifest and accompanying documentation indicated, *inter alia*, that Respondent was the generator of the shipped crushed and broken fluorescent light bulbs and that said bulbs constituted a hazardous waste.

23. The aforementioned (paragraph 21, above) Hazardous Waste Manifest indicated that the shipped crushed and broken fluorescent light bulbs was classified as a "D009" hazardous waste.

24. Sometime prior to March 18, 2013, Respondent ceased the practice crushing the fluorescent light bulbs it was accepting at Respondent's facility.

25. At the time of EPA's inspection and for sometime prior thereto, shards of glass and phosphor dust (a dust white in appearance) generated by the crushing of the fluorescent bulbs in the aforementioned (paragraph 17, above) bulb crusher were on said bulb crusher.

26. Prior to August 28, 2012, Respondent had stored at Respondent's facility some crushed and broken fluorescent light bulbs for under 90 days prior to having such waste shipped off-site.

27. Respondent has never obtained a RCRA permit for the storage of hazardous waste at Respondent's facility.

28. Respondent has never obtained "interim status" (as defined in Section 3005(e) of RCRA, 42 U.S.C. § 6925(e)) for Respondent's facility.

29. The question of an appropriate penalty (if any) for any liability resulting from Respondent's handling and managing hazardous waste at Respondent's facility as this Court might find remains to be determined at the hearing scheduled to commence September 23, 2014 (or at some later date as ordered by this Court).

II. Stipulated Exhibits

The parties hereby agree and accept the numbering system used in their respective prehearing exchanges (including Complainant's rebuttal prehearing exchange), as supplemented by order of this Court, for purposes of identifying at the upcoming hearing the exhibits listed in such prehearing exchanges. The parties additionally agree and accept that each party waives any objection pursuant to 40 C.F.R. §§ 22.22 and 22.23 to the admissibility of such exhibits into the record of the hearing to be held, and each party further consents to the admission of the exhibits listed below into the record of such hearing, provided that any document for which admissibility has been stipulated has been particularly identified by its specific name in any of the prehearing exchanges.

III. Stipulated Testimony

The parties hereby agree and accept that the anticipated testimony of their respective witnesses (if called) will cover the matters as set forth in their respective prehearing exchanges, provided that any such witness has been specifically identified as to his/her specific name. The parties further agree and accept that the provisions in this section regarding stipulated testimony do not constitute, and are not intended to be construed as, evidence.

The parties agree and accept that the paragraphs from their respective prehearing exchanges listing and identifying their witnesses by name are hereby incorporated by reference into these Joint Stipulations with the same force and effect as if set forth in full.

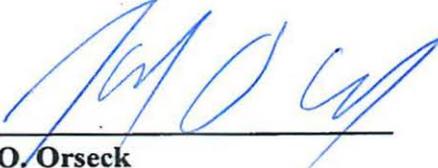
FOR COMPLAINANT:



Melva J. Hayden
Counsel for Complainant
United States Environmental Protection
Agency, Region 2
New York, New York

Dated: August 22, 2014
 New York, New York

FOR RESPONDENT:



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Counsel for Respondent
Orseck Law Offices PLLC
Liberty, New York

Dated: 8/22/14
 Liberty, New York