

STATE OF CALIFORNIA  
ENVIRONMENTAL PROTECTION AGENCY  
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

The HVAC Exchange, Inc.  
2675 Faivre Street  
Chula Vista, California 91911

ID No. CAL000313509

Respondent.

Docket HWCA2016-7369

CONSENT ORDER

Health and Safety Code  
Section 25187

1. INTRODUCTION

The State Department of Toxic Substances Control (Department) and The HVAC Exchange, Inc., a California corporation (Respondent) (collectively, "The Parties"), enter into this Consent Order and agree as follows:

1. Respondent provides services in demolition, equipment recycling, equipment resale, storage, trucking, roll placement and refrigerant removal. Respondent generates hazardous waste at its business located at 2675 Faivre Street, Chula Vista, California 91911 (Site).
2. The Department inspected the Site on December 15, 2016.
3. The Department alleges the following violation:

3.1. Respondent violated Health and Safety Code section 25201(a) in that on or about December 15, 2016, Respondent accepted and stored hazardous waste from a shooting range (used pre-filters, used HEPA air filters and waste vacuum bags containing floor sweepings contaminated with lead) without a hazardous waste facilities permit or other grant of authorization from the Department.

4. A dispute exists regarding the alleged violations.

5. The parties wish to avoid the expense of litigation and to ensure prompt compliance.

6. Jurisdiction exists pursuant to Health and Safety Code section 25187.

7. Respondent waives any right to a hearing in this matter.

8. This Consent Order shall constitute full settlement of the violations alleged above but does not limit the Department from taking appropriate enforcement action concerning other violations.

9. Respondent admits the violation as alleged.

#### SCHEDULE FOR COMPLIANCE

10. Effective immediately:

10.1. Respondent shall not accept and/or store off-site hazardous waste without a hazardous waste facilities permit or other grant of authorization from the Department; and

10.2 Respondent shall comply with all applicable provisions of the Hazardous Waste Control Law (Health & Saf. Code § 25100 et seq.) and its implementing regulations (California Code of Regulations, title 22, section 66260.1 et seq.) at the Site and in connection with its operations.

10.3. Submittals: All submittals from Respondent pursuant to this Consent

Order shall be sent simultaneously to:

Carlo Rodriguez  
Unit Chief  
Enforcement & Emergency Response Division  
Department of Toxic Substances Control  
2375 Northside Drive, Suite 100  
San Diego, California 92108

Sonia Wills  
Senior Attorney  
Office of Legal Counsel  
Department of Toxic Substances Control  
700 Heinz Avenue  
Berkeley, California 94710

#### PAYMENTS

11. Respondent shall pay the Department a total of fifteen thousand (\$15,000.00) dollars in administrative penalties. The total amount shall be paid in three equal monthly installments in the amount of \$5,000 per installment. The first installment is due within 30 days of the Effective Date of this Consent Order, the second installment is due within 60 days of the Effective Date of this Consent Order and the third installment is due within 90 days of the Effective Date of this Consent Order. 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

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In the Matter of The HVAC Exchange, Inc.  
Docket Number HWCA2016-7369  
Consent Order

1001 I Street, 21st floor  
P. O. Box 806  
Sacramento, California 95812-0806

A photocopy of the check(s) shall be sent simultaneously to:

To: Carlo Rodriguez  
Unit Chief  
Enforcement & Emergency Response Division  
Department of Toxic Substances Control  
2375 Northside Drive, Suite 100  
San Diego, California 92108

Sonia Wills  
Senior Attorney  
Office of Legal Counsel  
Department of Toxic Substances Control  
700 Heinz Avenue  
Berkeley, California 94710

If Respondent fails to make the 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.

## 12. OTHER PROVISIONS

12.1. 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.

12.2. Penalties for Noncompliance: Failure to comply with the terms of this Consent Order may subject Respondent to civil penalties and/or punitive damages for any 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.

12.3. Parties Bound: This Consent Order shall apply to and be binding upon Respondent 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.

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

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

12.6. Future Statutory or Regulatory Changes: Nothing in this Consent Order shall exempt or excuse the Respondent from complying with existing law, or with meeting any more stringent requirements that may be imposed by applicable law or changes in the applicable law.

12.7. Authority to Bind: Each person executing this Consent Order represents that he or she has full and legal authority to execute this Consent Order for and on behalf of the respective party for whom he or she is executing this Consent Order and to bind that party.

12.8. Counterparts: This Consent Order may be executed and delivered in one or more counterparts, each of which when executed and delivered shall be deemed to be an original, but such counterparts shall together constitute one and the same document.

12.9. Authorized Signatory: The Respondent warrants and guarantees its signatory below has been duly authorized and has full authority to execute this Agreement on behalf of the Respondent.

Respondent: The HVAC Exchange, Inc.

Dated: 3/16/2020 Original signed by Joseph John Wavra  
Joseph John Wavra,  
Chief Financial Officer  
The HVAC Exchange, Inc.

Department of Toxic Substance Control:

Dated: 3/20/2020 Original signed by Carlo Rodriguez  
Carlo Rodriguez, Unit Chief  
Enforcement & Emergency Response Division  
Department of Toxic Substances Control