

STATE OF CALIFORNIA  
ENVIRONMENTAL PROTECTION AGENCY  
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

1 IN THE MATTER OF:

DOCKET HWCA 2023-7718

2 Sun's Pad and Foam  
3 Recycling, Inc.  
4 108 Medburn St., #B1  
5 Concord, CA 94520

CONSENT ORDER

HEALTH AND SAFETY CODE  
SECTION 25187

6 Respondent

7  
8 INTRODUCTION

9 The California Department of Toxic Substances Control (Department) and Sun's  
10 Pad and Foam Recycling, Inc. (Respondent), a California corporation, (collectively, the  
11 Parties) enter into this Consent Order and agree as follows:

12 VIOLATIONS

13 1. Respondent handles and stores hazardous waste at 108 Medburn St., #B1,  
14 Concord, CA 94520 (Site).

15 2. The Department inspected the Site on November 16, 2022.

16 3. The Department alleges the following violations:

17 3.1 Respondent violated California Code of Regulations, title 22, section  
18 66273.33.5, subsection (a)(1)(B), in that, on or prior to November 16, 2022,  
19 Respondent stored unpalletized electronics directly on the asphalt without  
20 containment.

21 3.2 Respondent violated California Code of Regulations, title 22, section  
22 66273.34, subsections (a), (d), and (e), in that, on November 16, 2022, the  
23 Department observed ten shrink wrapped pallets containing electronic  
24

1 devices and Cathode Ray Tubes without universal waste labels and two  
2 pallets containing batteries without universal waste labels.

### 3 SCOPE AND EFFECT OF CONSENT ORDER

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

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

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

8 7. The Parties agree that the violations alleged in this Consent Order are admitted  
9 and deemed proven for any purpose in any DTSC Action(s) and Proceeding(s). Such  
10 purposes may include seeking enhanced penalties and/or to show a pattern, course of  
11 conduct, and/or a history of non-compliance. In any DTSC Action(s) and Proceeding(s),  
12 Respondent shall not defend against, challenge, or dispute DTSC's use of, or reliance  
13 on, the violations alleged in this Consent Order as being deemed admitted and deemed  
14 proven.

15 8. This Consent Order shall constitute full settlement of the violations alleged above  
16 but does not limit the Department from taking appropriate enforcement action  
17 concerning other violations, except to the extent expressly provided in this Consent  
18 Order.

### 19 COMPLIANCE REQUIREMENTS

20 9. Respondent shall immediately comply with the Hazardous Waste Control Law  
21 (Health & Safety Code, section 25100 et seq.) and its implementing regulations (Cal.  
22 Code of Regs., tit 22, section 66260.1, et seq.), at the Facility and in connection with its  
23 operations, including:  
24

1 9.1 Respondent shall manage electronic devices in a way that prevents  
2 releases of any universal waste or component of a universal waste to the  
3 environment under reasonably foreseeable conditions.

4 9.2 Respondent shall label or mark universal waste to identify the type of  
5 universal waste.

6 10. The violations identified in Paragraph 3 have been corrected.

### 7 PAYMENTS

8 11. The Respondent shall pay the Department a total of \$10,920.00 in administrative  
9 penalties. The Respondent shall pay the Department in three payment installments. The  
10 Effective Date of this Consent Order is defined in paragraph 15 below. The first  
11 installment of \$3,640.00 is due within 60 calendar days of the Effective Date of this  
12 Consent Order; the second installment of \$3,640.00 is due within 120 calendar days of  
13 the Effective Date of this Consent Order; and the third installment of \$3,640.00 is due  
14 within 180 calendar days of the Effective Date of this Consent Order. Respondent's  
15 check or electronic funds transfer (EFT) shall be made payable to Department of Toxic  
16 Substances Control. If Respondent makes payment by EFT, it shall be done as  
17 directed in the "Electronic Fund Transfer Instructions" provided by the Department to  
18 Respondent. As soon as the EFT payment is completed, Respondent shall notify the  
19 Department's Accounting Office by email ([accounting@dtsc.ca.gov](mailto:accounting@dtsc.ca.gov)) and  
20 [Swai.Ratsamythong@dtsc.ca.gov](mailto:Swai.Ratsamythong@dtsc.ca.gov). If payment is made by check, it shall identify the  
21 Respondent and Docket Number as show in the caption of this Consent Order, and  
22 shall be delivered together with the attached Payment Voucher  
23  
24

1 to:  
2 Department of Toxic Substances Control  
3 Accounting Office  
4 1001 I Street, 21st floor  
5 P. O. Box 806  
6 Sacramento, California 95812-0806

7 If payment is made by check, a photocopy of the check shall also be sent:

8 To: Maria Salomon, Sr. Environmental Scientist (Supervisory)  
9 Enforcement and Emergency Response Division  
10 8800 Cal Center Drive  
11 Sacramento, CA 95826

12 If Respondent fails to make payment as provided above, Respondent agrees to pay  
13 interest at the rate established pursuant to Health and Safety Code section 25360.1 and  
14 to pay all costs incurred by the Department in pursuing collection, including attorney's  
15 fees.

### 16 OTHER PROVISIONS

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

20 13. Penalties for Noncompliance: Failure to comply with the terms of this Consent  
21 Order may subject Respondent to costs, penalties, and/or punitive damages, including  
22 any costs incurred by the Department or other government agencies as a result of such  
23 failure, as provided by Health and Safety Code section 25188 and other applicable  
24 provisions of law.

14. 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

1 individuals, partners, and subsidiary and parent corporations, and upon the Department  
2 and any successor agency that may have responsibility for and jurisdiction over the  
3 subject matter of this Consent Order.

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

6 16. Integration: This Consent Order constitutes the entire agreement between  
7 the Parties and may not be amended, supplemented, or modified, except by express  
8 written agreement signed by authorized representatives of each of the Parties.

9 17. Future Statutory or Regulatory Changes: Nothing in this Consent Order shall  
10 exempt or excuse Respondent from complying with existing law, or with meeting any  
11 more stringent requirements that may be imposed by applicable law or changes in the  
12 applicable law. Moreover, nothing in this Consent Order shall exempt or excuse  
13 Respondent from complying with any future hazardous waste facility permits, permit  
14 amendments, permit modifications, or authorizations issued to or applicable to the  
15 Facility.

16 18. Continuing Jurisdiction: In the event that any provision of this Consent Order,  
17 or the application of any such provision to any Party or set of circumstances, is for any  
18 reason or to any extent determined to be invalid, unlawful, void or unenforceable  
19 (hereafter collectively "Void"), the Parties shall negotiate in good faith to modify this  
20 Consent Order in a mutually acceptable manner so as to produce a Consent Order so  
21 as to effect the Parties' original intent as closely as possible and to the fullest extent  
22 possible without any Void provisions. In the event that the Parties are unable to  
23 mutually agree on such a modification to this Consent Order, the Court or other tribunal  
24 having jurisdiction to do so is authorized, and requested, to modify this Consent Order

1 so as to affect the Parties' original intent as closely as possible and to the fullest extent  
2 possible without any Void provisions.

3 19. Authority to Enter Into this Consent Order: Each signatory to this Consent  
4 Order certifies that such signatory is fully authorized by the Party such signatory  
5 represents to enter into this Consent Order and execute it on behalf of such Party.

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

9 Dated: Apr 26, 2023

10 Ms. Kim Ngo, Owner

11  
12 **Kimthoa Ngo** Digitally signed by Kimthoa Ngo  
Date: 2023.04.28 15:48:14 -07'00'

13 Respondent Signature

14 Dated: May 1, 2023

15 Maria Salomon, Sr. Environmental Scientist (Supervisory)

16  
17 **Maria Carmen Salomon** Digitally signed by Maria Carmen  
Salomon  
Date: 2023 05.01 08:30:10 -07'00'

18 Department of Toxic Substances Control