



STATE OF CONNECTICUT )  
 )  
 vs. )  
 )  
 THE GILMAN BROTHERS COMPANY )

CONSENT ORDER 2368

CONSENT ORDER

- A. With the agreement of Gilman Brothers Company ("Respondent"), the Commissioner of Energy and Environmental Protection ("Commissioner") finds the following:
1. The Respondent engages in the business of manufacturing polystyrene foam boards at 26 Gilman Road in Bozrah, Connecticut ("facility").
  2. At the facility, the Respondent maintains and operates the following associated process equipment: extruder; foam board trimmers and foam board laminators.
  3. Pursuant to Section 22a-174-3a of the Regulations of the Connecticut State Agencies ("Regulations"), the Respondent operates the polystyrene process and process equipment described in Paragraph A.2. of this Consent Order under operating permit no. 013-0007 ("NSR Permit").
  4. In January 2011, the Respondent modified their NSR Permit increasing the facility's potential Volatile Organic Compound ("VOC") emissions to fifty (50) tons or more per year.
  5. Because the Respondent's VOC potential emissions are 50 tons or more per year, the Respondent is a Title V source as defined in Section 22a-174-33 of the Regulations. Pursuant to Section 22a-174-33 of the Regulations, a Title V sources shall apply for and obtain a Title V Operating Permit within 12 months after becoming subject or limit its potential to emit by applying for a general permit to limit potential to emit from the Department of Energy & Environmental Protection ("Department").
  6. On April 18, 2012, the Respondent applied for and obtained Permit No. 013-0010-TV ("Title V Operating Permit") to operate their facility as required by Section 22a-174-33 of the Regulations. Prior to obtaining the Title V Operating Permit, the Respondent was covered under the Department's General Permit to Limit the Potential to Emit ("GPLPE"), which expired in February 2011.
  7. The Title V Operating Permit limits the premises' polystyrene production and air emissions associated with

the polystyrene process.

*Failure to operate in accordance with the Title V Operating Permit & NSR Permit*

8. Pursuant to Section III.A.3.a of the Title V Operating Permit & Part II.A.4 of the NSR Permit, the Respondent shall not produce, in any consecutive 12-month period, foam scraps at rates exceeding twenty percent (20%) of the total foam boards produced at the facility.
9. On August 7, 2012, the Department performed a full compliance inspection at the facility and determined that the Respondent produced, for 21 consecutive 12-month periods, foam scraps at rates exceeding 20% of the total foam boards produced at the facility. Because the Respondent operated in such a manner, the Department determined that the Respondent violated Section III.A.3.a of the Title V Operating Permit & Part II.A.4 of the NSR Permit.
10. Pursuant to Section III.A.3.c of the Title V Operating Permit & Part III.B.1 of the NSR Permit, the Respondent shall submit a performance plan if the Respondent exceeds the foam scrap rate referenced in Paragraph A.8. of this Consent Order
11. Whereas, the Respondent exceeded the foam scrap production rate as described in Paragraph A.9. of this Consent Order, the Respondent was required to submit a performance plan pursuant to Section III.A.3.c of the Title V Operating Permit & Part III.B.1 of the NSR Permit. On August 7, 2012, the Department performed a full compliance inspection and determined that the Respondent failed to submit the required performance plan. Because the Respondent failed to submit a performance plan, the Department determined that the Respondent violated Section III.A.3.c of the Title V Operating Permit & Part III.B.1 of the NSR Permit.
12. Pursuant to Section III.A.4.c. of the Title V Operating Permit & Part III.A.4 of the NSR Permit, the Respondent shall record the monthly and consecutive 12-month VOC emissions for the premises.
13. On August 7, 2012, the Department performed a full compliance inspection at the facility and determined that the Respondent failed to accurately record and determine VOC emissions for the premises. Consequently, the Respondent submitted an inaccurate annual emission statement for calendar year 2011.
14. Subsequently, the Department reviewed the Respondent's 2011 emission statement and discovered that the Respondent erroneously reported 6.9 less tons of VOC than it actually emitted in 2011.
15. On October 12, 2012, the Department issued Notice of Violation 17012 to the Respondent because the Respondent violated Sections III.A.3.a. & c and III.A.4.c of the Title V Operating Permit as described in Paragraphs A.9. A.11. & A.13. of this Consent Order.

*Failure to Pay Title V Emission Fees*

16. Pursuant to Section 22a-174-26(d)(2) of the Regulations, the owner or operator of a Title V source subject to the provisions of Section 22a-174-33 shall pay an emission fee on or before July 1<sup>st</sup> of each year for emissions that occurred during the previous calendar year.

17. On June 21, 2012, the Respondent paid emissions fees calculated in accordance with Section 22a-174-26(d)(2) of the Regulations for calendar year 2011.
  18. Whereas, the Respondent submitted an inaccurate annual emission statement for calendar year 2011 as described in Paragraph A.13. of this Consent Order and consequently, under paid emissions fees on June 21, 2012, the Respondent owes additional emissions fees for the additional VOC emissions described in Paragraph A.14. of this Consent Order.
  19. By virtue of the above, the Respondent has violated Sections III.A.3.a. & c and III.A.4.c of the Title V Operating Permit; Parts II.A.4, III.B.1 and III.A.4 of the NSR Permit and Sections 22a-174-3a(h) & -26 of the Regulations.
- B. With the agreement of the Respondent, the Commissioner, acting under §§22a-6, 22a-171, 22a-174, 22a-177, and 22a-178 of the Connecticut General Statutes orders the Respondent as follows:
1. Within thirty (30) days after issuance of this Consent Order, the Respondent shall submit a performance plan in accordance with Section III.A.3.c of the Title V Operating Permit.
  2. If the Respondent determines that a modification of the NSR Permit & Title V Operating Permit to include VOC emissions from those foam boards purchased outside of the facility is necessary, a request for modification of the Permits shall be made by the Respondent no later than thirty (30) days after issuance of this Consent Order.
  3. Title V Emission Fees: On or before thirty (30) days after issuance of this Consent Order, the Respondent shall pay a total of \$2,347, in additional emission fees, for emissions that occurred in calendar year 2011.
  4. Payment of Title V Emission Fees: Payment of Title V emission fees under this Consent Order shall be mailed or personally delivered to the Department of Energy and Environmental Protection, Bureau of Financial and Support Services, Accounts Receivable Office, 79 Elm Street, Hartford, CT 06106-5127, and shall be by certified or bank check payable to Treasurer, State of Connecticut. The check shall state on its face, "Bureau of Air Management, Title V Emission Fees, Consent Order No. 2368."
  5. Civil Penalty. On or before thirty (30) days after issuance of this Consent Order, the Respondent shall pay a penalty of four thousand dollars (\$4,000) as the total civil penalty to be sought by the Commissioner for the violations identified in Paragraph A.19. of this Consent Order.
  6. Payment of penalties. Payment of penalties under this Consent Order shall be mailed or personally delivered to the Department of Energy and Environmental Protection, Bureau of Financial and Support Services, Accounts Receivable Office, 79 Elm Street, Hartford, CT 06106-5127, and shall be by certified or bank check payable to Treasurer, State of Connecticut. "The check shall state on its face, "Bureau of Air Management civil penalty, Consent Order No. 2368."

7. Full compliance. Respondent shall not be considered in full compliance with this Consent Order until all actions required by this Consent Order have been completed as approved and to the Commissioner's satisfaction.
8. Approvals. Respondent shall use best efforts to submit to the Commissioner all documents required by this Consent Order in a complete and approvable form. If the Commissioner notifies Respondent that any document or other action is deficient, and does not approve it with conditions or modifications, it is deemed disapproved, and Respondent shall correct the deficiencies and resubmit it within the time specified by the Commissioner or, if no time is specified by the Commissioner, within 30 days of the Commissioner's notice of deficiencies. In approving any document or other action under this Consent Order, the Commissioner may approve the document or other action as submitted or performed or with such conditions or modifications as the Commissioner deems necessary to carry out the purposes of this Consent Order. Nothing in this paragraph shall excuse noncompliance or delay.
9. Definitions. As used in this Consent Order, "Commissioner" means the Commissioner or a representative of the Commissioner.
10. Dates. The date of "issuance" of this Consent Order is the date the Consent Order is deposited in the U.S. mail or personally delivered, whichever is earlier. The date of submission to the Commissioner of any document required by this Consent Order shall be the date such document is received by the Commissioner. The date of any notice by the Commissioner under this Consent Order, including but not limited to notice of approval or disapproval of any document or other action, shall be the date such notice is deposited in the U.S. mail or is personally delivered, whichever is earlier. Except as otherwise specified in this Consent Order, the word "day" as used in this Consent Order means calendar day. Any document or action which is required by this Consent Order to be submitted or performed by a date which falls on a Saturday, Sunday or a Connecticut or federal holiday shall be submitted or performed by the next day which is not a Saturday, Sunday or Connecticut or federal holiday.
11. Certification of documents. Any document, including but not limited to any notice, which is required to be submitted to the Commissioner under this Consent Order shall be signed by Respondent or, if Respondent is not an individual, by Respondent's chief executive officer or a duly authorized representative of such officer, as those terms are defined in §22a-430-3(b)(2) of the Regulations of Connecticut State Agencies, and by the individual(s) responsible for actually preparing such document, and Respondent or Respondent's chief executive officer and each such individual shall certify in writing as follows:

"I have personally examined and am familiar with the information submitted in this document and all attachments thereto, and I certify, based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, that the submitted information is true, accurate and complete to the best of my knowledge and belief. I understand that any false statement made in the submitted information may be punishable as a criminal offense under §53a-157b of the Connecticut General Statutes and any other applicable law."
12. Noncompliance. This Consent Order is a final order of the Commissioner with respect to the matters addressed herein, and is nonappealable and immediately enforceable. Failure to comply with this

Consent Order may subject Respondent to an injunction and penalties.

13. False Statements. Any false statement in any information submitted pursuant to this Consent Order may be punishable as a criminal offense under §53a-157b of the Connecticut General Statutes and any other applicable law.
14. Notice of transfer; liability of Respondent. Until Respondent has fully complied with this Consent Order, Respondent shall notify the Commissioner in writing no later than 15 days after transferring all or any portion of the facility, the operations, the site or the business which is the subject of this Consent Order or after obtaining a new mailing or location address. Respondent's obligations under this Consent Order shall not be affected by the passage of title to any property to any other person or municipality.
15. Commissioner's powers. Except as provided hereinabove with respect to payment of civil penalties, nothing in this Consent Order shall affect the Commissioner's authority to institute any proceeding or take any other action to prevent or abate violations of law, prevent or abate pollution, recover costs and natural resource damages, and to impose penalties for past, present, or future violations of law. If at any time the Commissioner determines that the actions taken by Respondent pursuant to this Consent Order have not successfully corrected all violations, fully characterized the extent or degree of any pollution, or successfully abated or prevented pollution, the Commissioner may institute any proceeding to require Respondent to undertake further investigation or further action to prevent or abate violations or pollution.
16. Respondent's obligations under law. Nothing in this Consent Order shall relieve Respondent of other obligations under applicable federal, state and local law.
17. No assurance by Commissioner. No provision of this Consent Order and no action or inaction by the Commissioner shall be construed to constitute an assurance by the Commissioner that the actions taken by Respondent pursuant to this Consent Order will result in compliance.
18. Access to site. Any representative of the Department of Energy and Environmental Protection may enter the facility without prior notice for the purposes of monitoring and enforcing the actions required or allowed by this Consent Order.
19. No effect on rights of other persons. This Consent Order neither creates nor affects any rights of persons or municipalities that are not parties to this Consent Order.
20. Notice to Commissioner of changes. Within 15 days of the date Respondent becomes aware of a change in any information submitted to the Commissioner under this Consent Order, or that any such information was inaccurate or misleading or that any relevant information was omitted, Respondent shall submit the correct or omitted information to the Commissioner.
21. Notification of noncompliance. In the event that Respondent becomes aware that it did not or may not comply, or did not or may not comply on time, with any requirement of this Consent Order or of any document required hereunder, Respondent shall immediately notify by telephone the individual identified in the next paragraph and shall take all reasonable steps to ensure that any noncompliance or

delay is avoided or, if unavoidable, is minimized to the greatest extent possible. Within five (5) days of the initial notice, Respondent shall submit in writing the date, time, and duration of the noncompliance and the reasons for the noncompliance or delay and propose, for the review and written approval of the Commissioner, dates by which compliance will be achieved, and Respondent shall comply with any dates which may be approved in writing by the Commissioner. Notification by Respondent shall not excuse noncompliance or delay, and the Commissioner's approval of any compliance dates proposed shall not excuse noncompliance or delay unless specifically so stated by the Commissioner in writing.

22. Submission of documents. Any document required to be submitted to the Commissioner under this Consent Order shall, unless otherwise specified in writing by the Commissioner, be directed to:

Mr. Seng Phouthakoun  
Department of Energy and Environmental Protection  
Bureau of Air Management  
Engineering & Enforcement Division  
79 Elm Street  
Hartford, Connecticut 06106-5127

Respondent consents to the issuance of this consent order without further notice. The undersigned certifies that he/she is fully authorized to enter into this consent order and to legally bind the Respondent to the terms and conditions of the consent order.

Gilman Brothers Company

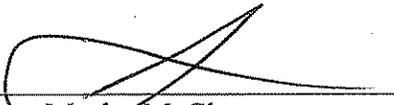
Signature: 

Type Name: EVAN GILMAN

Type Title: President

Date: 2/7/2013

Issued as a final order of the Commissioner of the Department of Energy and Environmental Protection.



Macky McCleary  
Deputy Commissioner  
Department of Energy and Environmental Protection

3/1/13  
Date

TOWN OF BOZRAH  
LAND RECORDS  
MAILED CERTIFIED MAIL,  
RETURN RECEIPT REQUESTED  
Certified Document No. 9414810200881687309113