



STATE OF CONNECTICUT

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Order No. 2375

VS.

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ARLINE D. WILKAS

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JARED W. WILKAS

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TONI R. WILKAS

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ADMINISTRATIVE ORDER

- A. In the matter of the State of Connecticut versus Arline D. Wilkas, Jared W. Wilkas, and Toni R. Wilkas (the "Respondents"), the Commissioner of Energy and Environmental Protection ("Commissioner") finds the following:
  - 1. The Respondents own and operate an Outdoor Wood Burning Furnace ("OWF"), located at 38 Sanford Road, Woodbury, Connecticut.
  - 2. The Respondents' OWF meets the definition of an OWF contained in Section 22a-174k of the Connecticut General Statutes ("C.G.S. §22a-174k").
  - 3. The Respondents' OWF was installed after July 8, 2005, and is therefore subject to the installation and operating requirements of C.G.S. §22a-174k.
  - 4. Pursuant to C.G.S. §22a-174k, no person shall, from July 8, 2005, construct, install, establish, modify, operate or use an OWF, unless (1) it was constructed, installed, established, modified, operated or in use prior to July 8, 2005, or (2) it complies with the following: (A) Installation of the OWF is not less than 200 ft from the nearest residence not serviced by the OWF; (B) Installation of the chimney of the OWF is at a height that is more than the height of the roof-peaks of the residences that are located within 500 ft of the OWF, which residences are not serviced by the OWF, provided the chimney height is not more than 55 ft; (C) No other materials are burned in the OWF other than wood that has not been chemically treated.
  - 5. In response to complaints the Department received regarding the Respondents' OWF, staff from the Bureau of Air Management inspected 38 Sanford Avenue in Woodbury on March 26, 2013. The Field Engineer determined that the OWF is located less than 200 ft from the nearest residence not serviced by the OWF. In addition, the chimney height of the OWF is lower than the roof peak of at least one residence not serviced by the OWF that is located within 500 ft of the OWF.

Date Issued: 8/16/13

6. Notice of Violation (NOV) No. 17085 was issued to the Respondents on May 7, 2013 for the observed violations of C.G.S. §22a-174k.
7. By virtue of the above, the Respondents are in violation of C.G.S. §22a-174k.
- B. Now, therefore the Commissioner, acting under §22a-6, §22a-171, §22a-174, §22a-177, and §22a-178, of the Connecticut General Statutes, orders the Respondents as follows:
  1. The Respondents shall immediately discontinue the operation of any and all OWFs located at the Respondents' residential property.
  2. Within thirty (30) days after the issuance of this Order, the Respondents shall submit written notice to the Commissioner stating that operations of all the OWFs at the Respondents' residential property have been discontinued. Such notice shall be signed by the Respondents and notarized by a Notary Public.
  3. The Respondents shall either remove the OWF from the property, render the unit permanently inoperable to the Commissioner's satisfaction, or modify the unit to fully comply with the requirements of C.G.S. §22a-174k.
  4. If the Respondents modify the OWF to fully comply with C.G.S. §22a-174k, then the Respondents shall demonstrate to the Commissioner's satisfaction that the OWF complies with the requirements of C.G.S. §22a-174k.
  5. If the Respondents render the OWF permanently inoperable, the Respondents shall submit written notice to the Commissioner stating that the unit has been rendered permanently inoperable, within thirty (30) days of rendering the unit permanently inoperable.
  6. If the Respondents remove the OWF from the property, the Respondents shall submit written notice to the Commissioner stating that the unit has been removed from the property, within thirty (30) days of removing the unit.
  7. Inspection and Compliance Evaluation. Within thirty (30) days after modifying, or relocating, or permanently rendering the unit inoperable, the Respondents shall contact the Commissioner and schedule dates and times for the Commissioner's staff to inspect the OWF and verify compliance with all applicable statutes, and regulations. The Respondents shall not operate the OWF except to provide the Department the opportunity to evaluate compliance with applicable statutes and regulations on the dates, and at the times scheduled in accordance with this paragraph. Subsequent to the inspection(s) and compliance evaluation(s), the Respondents shall not operate the OWF, unless the Commissioner has provided written authorization to do so. Should the inspection(s) and/or compliance evaluation(s) show that the OWF does not comply with applicable regulations, the Respondents shall, within thirty (30) days of receipt of the Commissioner's written notice that the OWF does not comply with applicable statutes and regulations, either submit a written proposal and schedule for additional corrective action for the Commissioner's review and written approval, or dismantle the OWF and remove it from the property. The Respondents shall implement any approved additional corrective actions in accordance with the approved schedule.

8. Full Compliance. The Respondents shall not be considered in full compliance with this Administrative Order until all actions required by this Order have been completed as approved and to the Commissioner's satisfaction.
9. Approvals. Respondents shall use best efforts to submit to the Commissioner all documents required by this Administrative Order in a complete and approvable form. If the Commissioner notifies the Respondents that any document or other action is deficient, and does not approve it with conditions or modifications, it is deemed disapproved, and Respondents shall correct the deficiencies and resubmit it within the time specified by the Commissioner or, if no time is specified by the Commissioner, within thirty (30) days of the Commissioner's notice of deficiencies. In approving any document or other action under 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.
10. Definitions. As used in this Consent Order, "Commissioner" means the Commissioner or a representative of the Commissioner.
11. 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 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 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.
12. 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 is punishable as a criminal offense under Section §53a-157b of the Connecticut General Statutes and any other applicable law."

13. Noncompliance. This 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 Order may subject Respondents to an injunction and penalties.
14. False statements. Any false statement in any information submitted pursuant to this Order is punishable as a criminal offense under §53a-157b of the Connecticut General Statutes and any other applicable law.
15. Notice of transfer; liability of Respondents. Until the Respondents have fully complied with this Order, the Respondents shall notify the Commissioner in writing no later than fifteen (15) days after transferring all or any portion of the facility, the operations, the site or the business which is the subject of this Order or after obtaining a new mailing or location address. Respondents' obligations under this Order shall not be affected by the passage of title to any property to any other person or municipality.
16. Commissioner's powers. Nothing in this 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 the Respondents pursuant to this 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 the Respondents to undertake further investigation or further action to prevent or abate violations or pollution.
17. Respondents' obligations under law. Nothing in this Order shall relieve Respondents of other obligations under applicable federal, state and local law.
18. No assurance by Commissioner. No provision of this Order and no action or inaction by the Commissioner shall be construed to constitute an assurance by the Commissioner that the actions taken by Respondents pursuant to this Order will result in compliance or prevent or abate pollution.
19. Access to site. Any representative of the Department of Energy & Environmental Protection may enter the facility without prior notice for the purposes of monitoring and enforcing the actions required or allowed by this Order.
20. No effect on rights of other persons. This Order neither creates nor affects any rights of persons or municipalities that are not parties to this Order.
21. Notice to Commissioner of changes. Within fifteen (15) days of the date Respondents become aware of a change in any information submitted to the Commissioner under this Order, or that any such information was inaccurate or misleading or that any relevant information was omitted, Respondents shall submit the correct or omitted information to the Commissioner.

22. Notification of noncompliance. In the event that the Respondents become aware that it did not or may not comply, or did not or may not comply on time, with any requirement of this Order or of any document required hereunder, Respondents 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, the Respondents 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 the Respondents shall comply with any dates which may be approved in writing by the Commissioner. Notification by the Respondents shall not excuse noncompliance or delay, and the Commissioner's approval of any compliance dates proposed shall not excuse noncompliance or delay.

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

Lakisha Stephenson  
 Department of Energy & Environmental Protection  
 Bureau of Air Management  
 Engineering & Enforcement Division  
 79 Elm Street, 5<sup>th</sup> Floor  
 Hartford, Connecticut 06106-5127

24. Joint and several liability. Respondents shall be jointly and severally liable for compliance with this Order.

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

*Gary S. Rose*

Gary S. Rose, Director  
 Engineering & Enforcement Division  
 Bureau of Air Management

*08-16-2013*

Date

MAILED CERTIFIED MAIL,  
 RETURN RECEIPT REQUESTED