

Connecticut Department of

**ENERGY &
ENVIRONMENTAL
PROTECTION**

STATE OF CONNECTICUT

V.

MID-NORTHEAST RECYCLING OPERATING COMMITTEE

CONSENT ORDER #WSWDH12003

Date Issued: April 13, 2012

- A. With the agreement of the Mid-Northeast Recycling Operating Committee (“Respondent”), the Commissioner of Energy and Environmental Protection (“the Commissioner”) finds:
1. Respondent is a recycling operating committee established pursuant to and under the authority of Chapter 446d of the Connecticut General Statutes (“CGS”) representing the towns of Andover, Ashford, Bolton, Chaplin, Columbia, Coventry, Eastford, Hampton, Mansfield, Scotland, Tolland, Union, Willington, and Windham.
 2. Pursuant to an inter-town agreement by and between its member towns, Respondent administers a permanent household hazardous waste collection facility located at Hancock Road in Willington, CT (“the site”).
 3. Respondent, in the name of the site’s host town, Town of Willington, applied for and maintains Permit to Operate No. 1600901-PO (“the permit”) issued by the Commissioner on May 19, 2009 for hazardous waste management operations at the site.
 4. Based on the findings of an inspection of the site performed by Department of Energy and Environmental Protection, Waste Engineering and Enforcement Division (“DEEP”) staff on August 20, 2011:
 - a. Respondent failed to maintain complete participant registration records at the facility that include participant name, town of residence, vehicle license plate number, and type and amount of waste being brought to the site as required by Section IV.A of the Mid-NEROC Household Chemical Waste Collection Center Operation and Management Plan (“O&MP”) dated May 17, 1993 or the latest revision, as incorporated into Condition 2 of the permit. Specifically, DEEP found the site recording only town of residence on the participant registration records.
 - b. Respondent failed to include the information required by Condition 14(B)(1)(a) through (c) of the permit in the site’s conditionally exempt small quantity generator (“CESQG”) verification form. Specifically, DEEP found the site’s CESQG verification form does not include the following questions: “(a) During any of the three (3) previous months, have you generated more than 220 pounds total of all hazardous wastes?; (b) Are you currently storing more than 2200 pounds total of all hazardous wastes?; (c) Do you certify that you meet the definition of CESQG?” as outlined in the permit.

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- c. Respondent failed to ensure that employees who receive, segregate, pack, consolidate, store and load hazardous waste are trained as required by Section IV.B of the O&MP, as incorporated into Condition 2 of the permit. Specifically, DEEP found two employees of the Respondent receiving, segregating, packing and/or consolidating wastes at the site were not trained.
 - d. Respondent failed to ensure that employees who consolidate solvents, paints, or other organic liquids in the Work Area wear air purifying respirators as required by Sections VI.B (1) & (2) of the O&MP, as incorporated into Condition 2 of the permit. Specifically, DEEP found one employee of the Respondent working in this area without an air-purifying respirator.
 - e. Respondent failed to ensure that employees who consolidate solvents, paints, or other organic liquids in the Work Area wear appropriate safety clothing as required by Section VI.B(2) of the O&MP, as incorporated into Condition 2 of the permit. Specifically, DEEP found one employee of the Respondent working in this area without safety glasses or safety shoes.
 - f. Respondent failed to mount an eye wash fountain on the hazardous waste storage building as shown in Section II. Figure 1 and required by Section V.C of the O&MP, as incorporated into Condition 2 of the permit. Specifically, DEEP found an eye wash station was present on-site, but not mounted on the hazardous waste storage building.
 - g. Respondent failed to list the Permittee's name, required safety precautions, unacceptable wastes, prohibitions against scavenging, and penalties for waste abandonment on signs posted at the site in accordance with Section 22a-209-9(c) of the Regulations of Connecticut State Agencies ("RCSA") as required by Condition 17 of the permit. Specifically, DEEP found signage at the site does not list the Permittee's name "Town of Willington", required safety precautions, unacceptable wastes, prohibitions against scavenging, and penalties for waste abandonment at the site.
 - h. Respondent failed to prominently post and maintain signs limiting truck idling time within the site as required by Condition 26(c) of the permit. Specifically, DEEP found no signs indicating "limited idling" posted at the site.
 - i. Respondent failed to post warning signs at the site indicating "Hazardous Waste" as required by Section II.E of the O&MP, as incorporated into Condition 2 of the permit. Specifically, DEEP found no "Hazardous Waste" warning signs posted at the site.
5. By virtue of the above, Respondent has violated Permit to Operate No. 1600901-PO issued May 19, 2009.
 6. On November 1, 2011 the DEEP issued Notice of Violation No. WSWDH 11078 to Respondent to correct violations corresponding to those listed in paragraph A.4 of this consent order.
 7. In correspondence received December 28, 2011, Respondent represented that the violation identified in paragraph A.4.a of this consent order has been corrected.
- B. With the agreement of Respondent, the Commissioner, acting under Sections 22a-6, 22a-131, 22a-208, 22a-225, and 22a-226 of the Connecticut General Statutes ("CGS"), orders Respondent as follows:

1. Respondent shall bring all violations identified in paragraph A.4 above into compliance with the terms and conditions of Permit to Operate No. 1600901-PO issued May 19, 2009 in accordance with the following schedule:
 - a. On or before **thirty (30) days** after the date of issuance of this consent order, Respondent shall retain one or more qualified consultants or in-house environmental compliance experts acceptable to the Commissioner to prepare the documents and implement or oversee the actions required by this consent order. Respondent shall retain such consultants or in-house environmental compliance experts or retain other qualified environmental consultants or in-house environmental compliance experts acceptable to the Commissioner until this consent order is fully complied with, and within **ten (10) days** after retaining any consultants or in-house environmental compliance experts other than those originally identified under this paragraph, Respondent shall notify the Commissioner in writing of the identity of such other consultant or in-house environmental compliance expert. Respondent shall submit to the Commissioner a description of a consultant's or in-house environmental compliance expert's education, experience, and training which is relevant to the work required by this consent order within **ten (10) days** after a request for such description. Nothing in this paragraph shall preclude the Commissioner from finding a previously acceptable consultant or in-house environmental compliance expert unacceptable.
 - b. On or before **sixty (60) days** after issuance of this consent order, Respondent shall address the comments specified in the attached correspondence letter dated January 30, 2012, which is incorporated herein and made a part of this consent order, and submit, for the Commissioner's review and written approval, documentation demonstrating such comments have been addressed.
 - c. On or before **ninety (90) days** after the date of issuance of this consent order, Respondent shall submit for the Commissioner's review and written approval a plan detailing additional actions and/or operational changes to ensure future compliance with the requirements specified in paragraph A.4 of this consent order. Within **five (5) days** after the Commissioner approves such plan, Respondent shall carry out the plan and maintain it in full effect thereafter.
2. 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.
3. Status of Notice of Violation No. WSWDH 11078: This consent order supersedes Notice of Violation No. WSWDH 11078.
4. Civil Penalty. Respondent agrees to the assessment of a civil penalty of eleven thousand eight hundred eighty dollars (\$11,880.00) as the total civil penalty to be sought by the Commissioner for those, and only those, violations described in paragraph A.4 of this consent order. The Commissioner and the Respondent agree that eleven thousand eight hundred eighty dollars (\$11,880.00) shall be permanently dismissed pending Respondent's full compliance with the terms and conditions of this consent order and documents incorporated herein and upon issuance of a compliance letter by the Commissioner. In the event that, in the sole judgment of the Commissioner, Respondent violates any provision of this consent order, Respondent shall pay to the Commissioner the penal sum of eleven thousand eight hundred eighty dollars (\$11,880.00) within thirty (30) days from the receipt of the DEEP's written notice thereof.

5. 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 Materials Management and Compliance Assurance, Waste Engineering and Enforcement Division, civil penalty, consent order COWSWDH 12003." A copy of the check as well as any transmittal letter shall be mailed or delivered to Julie Dutton, Bureau of Materials Management and Compliance Assurance, Waste Engineering and Enforcement Division at the same address.
6. Sampling and Sample Analyses. All sampling and sample analyses which are required by this consent order and all reporting of such sample analyses shall be conducted by a laboratory certified by the Connecticut Department of Public Health to conduct such sampling and analyses. All sampling and sample analyses performed under this order shall be performed in accordance with procedures specified or approved in writing by the Commissioner, or, if no such procedures have been specified or approved, in accordance with EPA document SW-846. Unless otherwise specified by the Commissioner in writing, the value of each parameter shall be reported to the maximum level of precision and accuracy specified in the applicable protocol, and if no such level is specified, to the maximum level of precision and accuracy possible.
7. 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 thirty (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.
8. Definitions. As used in this consent order, "Commissioner" means the Commissioner or a representative of the Commissioner.
9. 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.
10. 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 Section 22a-430-3(b)(2) of the RCSA, and by the individual(s) responsible for actually preparing such document, 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.”

11. Noncompliance. This consent order is a final order of the Commissioner with respect to the matters addressed herein, and is non-appealable and immediately enforceable. Failure to comply with this consent order may subject Respondent to an injunction and penalties.
12. False statements. Any false statement in any information submitted pursuant to this consent order may be punishable as a criminal offense under Section 53a-157b of the CGS and any other applicable law.
13. 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 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 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.
14. 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.
15. Respondent's obligations under law. Nothing in this consent order shall relieve Respondent of other obligations under applicable federal, state and local law.
16. 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 or prevent or abate pollution.
17. Access to site. Any representative of the Department of Energy and Environmental Protection may enter the site without prior notice for the purposes of monitoring and enforcing the actions required or allowed by this consent order.
18. 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.
19. Notice to Commissioner of changes. Within fifteen (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.

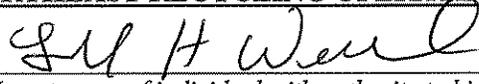
20. Notification of noncompliance. In the event that Respondent becomes aware that it did not or may not comply, or did not or may not comply on time, with any requirement of this consent order or of any document required hereunder, Respondent shall immediately notify by telephone the individual identified 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.
21. Submission of documents. Any document required to be submitted to the Commissioner under this consent order shall, unless otherwise specified in this consent order or in writing by the Commissioner, be directed to:

Michelle L. Gore, Sanitary Engineer 3
Department of Energy and Environmental Protection
Bureau of Materials Management and Compliance Assurance
Waste Engineering and Enforcement Division
79 Elm Street, 4th Floor
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.

MID-NORTHEAST RECYCLING OPERATING COMMITTEE

BY:


(Insert name of individual with authority to bind Respondent to terms of consent order)
TIMOTHY H WENTZELL
PROGRAM ADMINISTRATOR
(Insert individual's title)

3/27/12
Date

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


Macky McCleary
Deputy Commissioner

4/12/12
Date