

**STATE OF CONNECTICUT
V.
MAXAM INITIATION SYSTEMS, LLC**

CONSENT ORDER #WSWDH13010

Date Issued: January 22, 2013

- A. With the agreement of Maxam Initiation Systems, LLC (“Respondent”), the Commissioner of Energy and Environmental Protection (“the Commissioner”) finds:
1. Respondent is a limited liability company which is or has been engaged in the assembly of electric and non-electric detonators at 74 Dixon Road in Sterling, Connecticut (“the site”).
 2. Respondent is or has been a generator of hazardous waste at the site.
 3. Based on the findings of an inspection of the site performed on June 26th and July 12th, 2012:
 - a. Respondent failed to have interim status or obtain a permit from the Commissioner prior to treating hazardous waste at the site as required by Section 22a-449(c)-110(a)(2) of the Regulations of Connecticut State Agencies (“RCSA”), incorporating by reference Title 40 of the Code of Federal Regulations (“CFR”) 270.1(c) with specified changes. Specifically, the Department of Energy and Environmental Protection (“DEEP”) found Maxam Initiation Systems, LLC treating its off-specification and scrap detonators for the characteristic of reactivity by destroying the devices in an on-site cannon and test pit.
 - b. Respondent failed to obtain an EPA identification number as required by Section 22a-449(c)-104(a)(2)(E) of the RCSA, incorporating by reference 40 CFR 264.11 with specified changes. Specifically, DEEP found Maxam Initiation Systems, LLC did not have an EPA identification number.
 - c. Respondent failed to obtain a detailed chemical and physical analysis of the waste prior to treatment, storage, or disposal as required by Section 22a-449(c)-104(a) of the RCSA, incorporating by reference 40 CFR 264.13 with specified changes. Specifically, DEEP found Maxam Initiation Systems, LLC did not have complete chemical and physical analyses for the off-specification and scrap detonators destroyed on-site.
 - d. Respondent failed to label or mark containers accumulating hazardous waste with the words “Hazardous Waste” and other words that identify the contents as required by Section 22a-449(c)-104(e) of the RCSA. Specifically, DEEP found the following containers on-site were not properly marked: one, 5-gallon container located at Line #1 and labeled “hazardous materials HMX with water” lacked the words “Hazardous Waste”; one, 64-gallon plastic container located north of the permanent magazine and accumulating the carcasses of fired surface mount and in-hole detonators labeled “Hazardous Materials Do Not Open” lacked the words “Hazardous Waste” and a description of contents; two, 5-gallon containers located north of the permanent magazine and

labeled "Hazardous materials HMX with water" lacked the words "Hazardous Waste"; one, 64-gallon plastic container located within the wooden shed next to the office building and accumulating carcasses of fired surface mount and in-hole detonators labeled "Hazardous Materials Do Not Open" lacked the words "Hazardous Waste" and a description of contents.

- e. Respondent failed to have a hazardous waste management contingency plan as required by Section 22a-449(c)-104(a) of the RCSA, incorporating by reference 40 CFR 264.50 through 264.56. Specifically, DEEP found Maxam Initiation Systems, LLC maintained a Security Plan and Evacuation Plan for the site, but did not have a hazardous waste management contingency plan.
- f. Respondent failed to provide hazardous waste management training to personnel as required by Section 22a-449(c)-104(a) of the RCSA, incorporating by reference 40 CFR 264.16. Specifically, DEEP found that the training provided to Maxam Initiation Systems, LLC employees did not include hazardous waste management training relative to employees' job duties. In addition, employee job descriptions did not include a description of hazardous waste management duties.
- g. Respondent failed to maintain a hazardous waste management inspection schedule and log as required by Section 22a-449(c)-104(a) of the RCSA, incorporating by reference 40 CFR 264.15. Specifically, DEEP found Maxam Initiation Systems, LLC did not maintain a hazardous waste management inspection schedule and log for containers accumulating hazardous waste, loading/unloading areas, and treatment equipment. In addition, time of inspection was not included on monthly safety and emergency equipment inspection logs. *(Note: Time of inspection is included in the safety and emergency equipment inspection log submitted to DEEP via e-mail correspondence dated August 13, 2012.)*
- h. Respondent failed to keep a written operating record at the facility that contains the quantity, method(s) and date(s) of hazardous waste treatment as required by Section 22a-449(c)-104(a)(2) of the RCSA, incorporating by reference 40 CFR 264.73 with specified changes. Specifically, DEEP found Maxam Initiation Systems, LLC did not keep a written record specific to its treatment of hazardous waste at the site.
- i. Respondent failed to submit a biennial report as required by Section 22a-449(c)-104(a)(2)(M) of the RCSA, incorporating by reference 40 CFR 264.75 with specified changes. Specifically, DEEP found Maxam Initiation Systems, LLC has operated an unpermitted hazardous waste treatment facility at the site since 2003 and has never submitted a biennial report.
- j. Respondent failed to have a written closure plan for the facility as required by Section 22a-449(c)-104(a) of the RCSA, incorporating by reference 40 CFR 264.112. Specifically, DEEP found Maxam Initiation Systems, LLC has operated an unpermitted hazardous waste treatment facility at the site since 2003 and does not have a written closure plan.
- k. Respondent failed to have a detailed written cost estimate, in current dollars, of the cost of closing the facility as required by Section 22a-449(c)-104(a) of the RCSA, incorporating by reference 40 CFR 264.142. Specifically, DEEP found Maxam Initiation Systems, LLC has operated an unpermitted hazardous waste treatment facility at the site since 2003 and does not have a closure cost estimate.
- l. Respondent failed to establish financial assurance for closure of the facility as required by Section 22a-449(c)-104(a) of the RCSA, incorporating by reference 40 CFR 264.143 with specified changes. Specifically, DEEP found Maxam Initiation Systems, LLC has operated an unpermitted hazardous waste treatment facility at the site since 2003 and has not established financial assurance for closure.

- m. Respondent failed to have and maintain third party liability insurance for sudden accidental occurrences as required by Section 22a-449(c)-104(a) of the RCSA, incorporating by reference 40 CFR 264.147. Specifically, DEEP found Maxam Initiation Systems, LLC has operated an unpermitted hazardous waste treatment facility at the site since 2003 and does not have or maintain third party liability insurance.
4. By virtue of the above, Respondent has violated Sections 22a-449(c)-104 and 110 of the RCSA.
 5. On September 21, 2012 DEEP issued Notice of Violation No. WSWDH 12117 to Respondent to correct the violations listed in paragraph A.3 of this consent order.
 6. Based upon the information submitted to DEEP via electronic mail on August 13, 2012 and in correspondence received October 19, 2012, Respondent has corrected the violations alleged in paragraph A.3 of this consent order. Respondent has corrected the violation alleged in subparagraph A.3.a of this consent order by ceasing its treatment of hazardous waste, consequently precluding any violation of Section 22a-449(c)-104 of the RCSA.
 7. By agreeing to the issuance of this consent order, Respondent makes no admission of fact or law with respect to the matters addressed herein, other than the facts asserted in paragraphs A.1, A.2 and A.5 above.
- B. With the agreement of Respondent, the Commissioner, acting under Sections 22a-6, 22a-131, and 22a-449 of the Connecticut General Statutes ("CGS"), orders Respondent as follows:
1. Respondent shall maintain all hazardous waste handling procedures and facilities in compliance with all the applicable provisions of the RCSA Section 22a-449(c)-100, et. seq., 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 **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 of RCSA Section 22a-449(c)-100, et. seq. Within **ten (10) days** after the Commissioner approves such plan, Respondent shall carry out the plan and maintain it in full effect thereafter.

- c. Respondent shall conduct a comprehensive recycling review of the facility to evaluate compliance with Connecticut's recycling laws set forth in CGS Section 22a-241b(d). 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 business recycling profile documenting the management of recyclable materials. Refer to the enclosed example profile.
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 12117: This consent order supersedes Notice of Violation No. WSWDH 12117.
4. Civil penalty. On or before **fourteen (14) days** after issuance of this consent order, Respondent shall pay a penalty of **seventeen thousand eight hundred dollars (\$17,800.00)** as the total civil penalty to be sought by the Commissioner for those, and only those, violations described in paragraph A.3 of this consent order. This penalty payment must be made in accordance with the protocol described in paragraph B.6 below.
5. Supplemental Environmental Project. In addition to the penalty referenced in paragraph B.4 above, Respondent has agreed to fund a supplemental environmental project ("SEP") or projects acceptable to the Department according to its February 15, 1996 "Policy on Supplemental Environmental Projects". Therefore, on or before one hundred eighty (180) days after the date of issuance of this consent order, Respondent shall pay **seventeen thousand eight hundred dollars (\$17,800.00)** to the Statewide SEP Account, provided Respondent has not received approval from the Commissioner to perform an alternate SEP. Within ninety (90) days of issuance of the order, Respondent may submit an alternate SEP proposal for the Commissioner's review and written approval. If such approval is received, then the payment to the Statewide SEP Account noted above is limited to the difference between the credited value of the SEP and seventeen thousand eight hundred dollars (\$17,800.00). The proposed alternative SEP shall be implemented within sixty (60) days of the Commissioner's approval of the proposed SEP. Any payments under this paragraph 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, Connecticut 06106-5127, and shall be by certified or bank check payable to the "Connecticut Department of Energy and Environmental Protection", with notation thereon "Statewide SEP Account" and the consent order number identified on the first page of this Consent Order. A copy of the check and any transmittal letter shall also be sent to Julie Dutton, Bureau of Materials Management and Compliance Assurance, Waste Engineering and Enforcement Division at the same address.
 - a. Respondent shall not claim or represent that any SEP payment made pursuant to this consent order constitutes an ordinary business expense or charitable contribution or any other type of tax deductible expense, and Respondent shall not seek or obtain any other tax benefit such as a tax credit as a result of the payment under this paragraph.
 - b. If and when Respondent disseminates any publicity, including but not limited to any press releases regarding funding a SEP, Respondent shall include a statement that such funding is in partial settlement of an enforcement action brought by the Commissioner.

- c. If Respondent fails to fully perform any SEP in accordance with paragraph B.5 of this consent order, Respondent shall immediately notify the Commissioner in writing of such noncompliance and shall, upon written request by the Commissioner, remit a payment equal to: the total estimated cost, as determined by the Commissioner, of all such SEP(s); plus either \$2,500 or 10% of such total estimated cost, whichever is greater. Within fourteen (14) days after the date of the Commissioner's written request, Respondent shall make such payment in accordance with the remittance procedures for unexpended SEP funds in paragraph B.5 above.
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 the "Connecticut Department of Energy and Environmental Protection." The check shall state on its face, "Bureau of Materials Management and Compliance Assurance, Waste Engineering and Enforcement Division, civil penalty" and the consent order number identified on the first page of this consent order. 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.
7. 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.
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 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.
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 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."
12. 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.
13. 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.
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 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.
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 or prevent or abate pollution.
18. 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.
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.

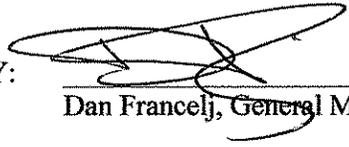
20. Notice to Commissioner of changes. Within fifteen (15) days of the date Respondent becomes aware of a change in any information submitted to the Commissioner under this consent order, or that any such information was inaccurate or misleading or that any relevant information was omitted, Respondent shall submit the correct or omitted information to the Commissioner.
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 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.

MAXAM INITIATION SYSTEMS, LLC

BY:



Dan Francelj, General Manager

Jan 7/13
Date

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



Macky McCleary
Deputy Commissioner

1/18/13
Date