

STATE OF CONNECTICUT  
V.  
THE WILSON ARMS COMPANY

CONSENT ORDER # WSWDH13017

Date Issued: August 23, 2013

A. With the agreement of The Wilson Arms Company ("Respondent"), the Commissioner of Energy and Environmental Protection ("the Commissioner") finds:

1. Respondent is a rifle barrel manufacturer located at 97 Leetes Island Road in Branford, 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 January 23 and 24, 2013:
  - a. Failed to develop and maintain a hazardous waste management contingency plan as required by Section 22a-449(c)-102(a)(2)(K) of the Regulations of Connecticut State Agencies ("RCSA") which incorporates by reference 40 CFR 262.34(a)(4) with specified changes. Specifically, the Department found the company operated as a large quantity generator of hazardous waste at the site without a hazardous waste management contingency plan for the site.
  - b. Failed to provide personnel with hazardous waste management training as required by Section 22a-449(c)-102(a)(2)(K) of the RCSA which incorporates by reference 40 CFR 262.34(a)(4) and 265.16. Specifically, the Department found the company operated as a large quantity generator of hazardous waste at the site without documentation that employees were provided with hazardous waste management training.
  - c. Failed to perform inspections and maintain an inspection schedule and log as required by Section 22a-449(c)-102(b)(2) of the RCSA which incorporates by reference 40 CFR 265.15. Specifically, the Department found the company operated as a large quantity generator of hazardous waste at the site without providing documentation that an inspection schedule and log were developed and maintained for the hazardous waste container storage area and safety and emergency equipment for the site.

- d. Failed to provide a biennial hazardous waste report as required by Section 22a-449(c)-102(a)(2)(AA) of the RCSA which incorporates by reference 40 CFR 262.41 with specified changes. Specifically, the Department found Respondent operated as a large quantity generator of hazardous during the 2011 calendar year. The amount of waste generated per month was greater than 2,200 pounds for at least the following dates as indicated by shipping records: March 4, 2011, March 18, April 1, 2011, and April 15, 2011(Manifest review shows the company operated as an LQG in prior years including 2010, 2008, 2007 and 2005). Respondent did not submit a biennial report by March 1, 2012, as required of large quantity generators of hazardous waste.
4. On April 9, 2013 the Department issued Notice of Violation No. WSWDH13022 to Respondent to correct violations corresponding to those listed in paragraph A.3 of this consent order.
  5. In correspondence received March 1, 2013 and April 29, 2013, Respondent represented that violations corresponding to those listed in paragraph A.3.a through A.3.c of this consent order have been corrected.
  6. By virtue of the above, Respondent has violated Sections 22a-449(c)-102, 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, and A.2 of this consent order.
- B. With the agreement of Respondent, the Commissioner, acting under Sections 22a-6, 22a-131, and 22a-449 of the Connecticut General Statutes, orders Respondent as follows:
1. Respondent shall bring all violations identified in paragraph A.3 into compliance and 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 issuance of this consent order, Respondent shall designate and assign an environmental compliance expert who may be a full-time employee of the Respondent, and/or retain one or more qualified consultants, acceptable to the Commissioner, to prepare the documents and implement or oversee the actions required by this consent order and shall, by that date, notify the Commissioner in writing of the identity of such environmental compliance expert and/or consultants. Respondent shall assign such environmental compliance expert and/or retain such qualified consultant, acceptable to the Commissioner, until paragraph B. 1 of this consent order is fully complied with, and, within **ten (10) days** after assigning or retaining any environmental compliance expert or consultant for the purpose of addressing the actions required by this consent order, other than one originally identified under this paragraph, Respondent shall notify the Commissioner in writing of the identity of such other environmental compliance expert or consultant. Respondent shall submit to the Commissioner a description of the assigned environmental compliance expert's or consultant'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 a description. Nothing in this paragraph shall preclude the Commissioner from finding a previously acceptable compliance expert or consultant unacceptable.

- b. On or before **sixty (60 days)** after issuance of this consent order, Respondent shall perform all actions that it failed to perform as specified in paragraph A.3.d of this consent order, and submit for the Commissioner's review and written approval a report which details the actions taken to comply with the regulations cited in these paragraphs, and documentation demonstrating such actions.
    - c. On or before **sixty (60) 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.3. 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.
    - d. 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 recycling profile (Attachment A). 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 13022: This consent order supersedes Notice of Violation No. WSWDH 13022.
4. Civil penalty. On or before **fourteen (14) days** after issuance of this consent order, Respondent shall pay a penalty of **five thousand five hundred dollars (\$5, 500.00)** 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.
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 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.
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 §22a-430-3(b)(2) of the Regulations of Connecticut State Agencies, 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 nonappealable 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 §53a-157b of the Connecticut General Statutes and any other applicable law.

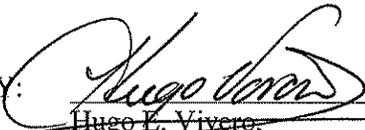
13. Notice of transfer; liability of Respondent. Until Respondent has fully complied with this consent order, Respondent shall notify the Commissioner in writing no later than **fifteen (15) days** after transferring all or any portion of the facility, the operations, the site or the business which is 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.

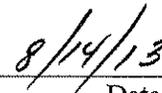
21. Submission of documents. Any document required to be submitted to the Commissioner under this consent order shall, unless otherwise specified in this consent order or in writing by the Commissioner, be directed to:

Evelyn Silva, Environmental Analyst 2  
Department of Energy and Environmental Protection  
Bureau of Materials Management and Compliance Assurance  
Waste Engineering and 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.

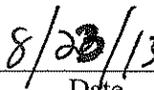
THE WILSON ARMS COMPANY

BY:   
\_\_\_\_\_  
Hugo E. Vivero,  
President

  
\_\_\_\_\_  
Date

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

  
\_\_\_\_\_  
Macky McCleary  
Deputy Commissioner  
Department of Energy and Environmental Protection

  
\_\_\_\_\_  
Date

Consent Order No.: WSWDH13017

# **ATTACHMENT A**