

Connecticut Department of

**ENERGY &  
ENVIRONMENTAL  
PROTECTION**

STATE OF CONNECTICUT

)

ORDER NO. 2011003DEP

vs.

)

EYELEMATIC MANUFACTURING  
COMPANY, INC.

)

)

**CONSENT ORDER**

A. With the agreement of Eyelematic Manufacturing Company, Inc. ("Respondent"), the Commissioner of Energy & Environmental Protection ("Commissioner") finds the following:

1. The Respondent operates a manufacturing facility (the "Facility") at 1 Seemar Road in Watertown, Connecticut, where they produce packaging cases for the cosmetic industry.
2. At the Facility, the Respondent operates a metal coating line consisting of 3 Ransberg spinning disk systems with a Smith thermal oxidizer.

**Findings related to air emissions:**

3. The spinning disk system and thermal oxidizer are subject to the requirements of Title V Permit No. 200-0034-TV, New Source Review (NSR) Permit 200-0015, and 40 CFR 63, Subpart MMMM - National Emission Standards for Hazardous Air Pollutants for Surface Coating of Miscellaneous Metal Parts and Products ("Subpart MMMM").
4. Pursuant to 40 CFR 63.3910(b), the Respondent was required, to submit an initial notification to US Environmental Protection Agency (EPA) no later than one year after 1/2/2004.
5. Pursuant to 40 CFR 63.3910(c), the Respondent was required, to submit a Notification of Compliance Status report to EPA covering the monitoring period of 1/2/2007 – 2/28/2008, no later than 30 calendar days after 2/28/2008.
6. Pursuant to 40 CFR 63.3960, the Respondent, was required to conduct an initial performance test to establish operating limits of the coating line and the thermal oxidizer no later than 3 years after 1/2/2004.
7. Pursuant to 40 CFR 63.3920, and Section III.B.8 of Permit No. 200-0034-TV, the Respondent is required to submit semiannual reports containing information related to the performance of the coating line and thermal oxidizer.

8. Pursuant to 40 CFR 63.3931 and 40 CFR 63.10(b)(1), and Section III.B.5 of Permit No. 200-0034-TV, the Respondent is required to monitor the oxidizer temperature and keep monitoring records at the site and recorded in a form suitable and readily available for expeditious inspection and review.
9. Pursuant to 40 CFR 63.3968, and Section III.B.8 of Permit No. 200-0034-TV, the Respondent is required to monitor or secure the valve controlling the thermal oxidizer bypass line in order to prevent uncontrolled process emissions from being diverted to the atmosphere.
10. On 6/30/2009, representatives of the Commissioner conducted a record review and an inspection of the facility and determined that the Respondent failed to submit the initial notification, the Notification of Compliance Status report and implement the record keeping and bypass monitoring requirements of Subpart MMMM.
11. On 9/16/2009, the Commissioner renewed Title V Permit No. 200-0034-TV to include various modifications and the requirements of Subpart MMMM, promulgated by US Environmental Protection Agency (EPA) on 1/2/2004.
12. Notice of Violation No. 16434 was issued to the Respondent on 10/29/2009 for the violations of Subpart MMMM.
13. The Respondent replied to Notice of Violation No. 16434 on 12/1/2009 and provided the Commissioner with a detailed description of the corrective actions taken to comply with Subpart MMMM. They submitted to EPA an initial notification on 6/23/2009, satisfactorily secured the system bypass valve and produced 5 years of records showing the operating temperature of the Smith thermal oxidizer.
14. On 6/22 and 6/23 of 2010 a representative of the Commissioner conducted a scheduled inspection, which verified that the corrective actions described in paragraph A.13 of this Consent Order had been implemented.
15. On 4/6/2010, a representative of the Commissioner inspected the facility to observe the required performance test (the "April 2010 test") referenced in paragraph A.6 of this Consent Order.
16. The results of the test, received by the Commissioner on 4/12/2010, indicated compliance with the VOC destruction limits and the emission capture system efficiency requirements of Subpart MMMM. The results of the test were approved by the Commissioner in a letter sent to the Respondent on 8/9/2010.
17. During the April 2010 test, the Respondent conducted the performance test assuming 100% capture efficiency for the emission capture system, using EPA Method 204 of 40 CFR 51, Appendix M.
18. Pursuant to 40 CFR 63.3968(g), the respondent is therefore required to continuously monitor either the facial velocity of the air through all the natural draft openings or the pressure drop across the enclosure.
19. During the April 2010 test, a representative of the Commissioner observed that the Respondent did not have a system in place to continuously monitor the operating conditions of the enclosure referenced in paragraph A.18 of this Consent Order.

20. Notice of Violation No. 16586 was issued to the Respondent on 8/9/2010 for failing to comply with 40 CFR 63.3968(g).
21. The Respondent replied to Notice of Violation No. 16586 on 9/27/2010 and provided the Commissioner with a detailed description of the corrective actions taken to comply with 40 CFR 63.3968(g). They indicated that a Dwyer Differential Pressure Transmitter and a Dwyer Data Logger had been installed in the enclosure on 9/22/2010.
22. By virtue of the above, the Respondent violated Permit No. 200-0034-TV and 40 CFR 63, Subpart MMMM - National Emission Standards for Hazardous Air Pollutants for Surface Coating of Miscellaneous Metal Parts and Products.

*Findings related to hazardous waste:*

23. The Respondent is or has been a generator of hazardous waste at the facility.
24. Based on an inspection conducted by the Department's, Bureau of Materials Management and Compliance Assurance, Waste Engineering and Enforcement Division ("WEED"), on January 11, 2011, the Respondent:
  - (a) Failed to update hazardous waste determinations at least once during each twelve (12) month period or whenever a process generating a waste changed, as required by section 22a-449(c)-102(a)(2)(A) of the Regulations of Connecticut State Agencies ("RCSA"), incorporating 40 CFR 262.11, with specified changes.
  - (b) Failed to mark containers of hazardous waste with the date upon which accumulation began, as required by section 22a-449(c)-102(a)(1) of the RCSA, incorporating 40 CFR 262.34(a)(2).
  - (c) Failed to mark all tanks and containers holding used oil with the words "Used Oil" as required by section 22a-449(c)-119(a)(1) of the RCSA, incorporating 40 CFR 279.22(c).
  - (d) Failed to conduct inspections of the container storage area at least once per week, as required by section 22a-449(c)-102(b)(2) of the RCSA, incorporating 40 CFR 265.15(b)(4) and 265.174.
  - (e) Failed to conduct inspections of all safety and emergency equipment at least once per month as required by section 22a-449(c)-102(b)(2) of the RCSA, incorporating 40 CFR 265.15(b)(4), with changes specified under section 22a-449(c)-105(a)(2)(G) of the RCSA.
  - (f) Failed to record the inspector's full name on an inspection log or summary, as required by section 22a-449(c)-102(b)(2) of the RCSA, incorporating 40 CFR 265.15(d).
  - (g) Failed to record inspections in a log or summary, as required by section 22a-449(c)-102(b)(2) of the RCSA, incorporating 40 CFR 265.15(d).
  - (h) Failed to submit copies of the facility's contingency plan to all local police and fire departments,

hospitals, and state and local emergency response teams that may be called upon to provide emergency services, as required by section 22a-449(c)-102(a)(1) of the RCSA, incorporating 40 CFR 262.34(a)(4) and 265.53(b).

- (i) Failed to amend the contingency plan when the list of emergency coordinators changed, as required by section 22a-449(c)-102(a)(1) of the RCSA, incorporating 40 CFR 262.34(a)(4) and 265.54(b).
- (j) Failed to ensure that all personnel involved in hazardous waste management successfully completed a program of classroom instruction or on the job training to ensure that they were properly trained in hazardous waste management procedures and were able to respond effectively to emergencies, as required by section 22a-449(c)-102(a)(2)(K) of the RCSA, incorporating 40 CFR 262.34(a)(4) and 40 CFR 265.16(a).
- (k) Failed to provide an annual review of initial hazardous waste training, as required by section 22a-449(c)-102(a)(2)(K) of the RCSA, incorporating 40 CFR 262.34(a)(4) and 265.16(c).
- (l) Failed to maintain the job title for each position at the facility related to hazardous waste management and the name of the employee filling each job, and a written job description for each position at the facility related to hazardous waste management, as required by section 22a-449(c)-102(a)(2)(K) of the RCSA, incorporating 40 CFR 262.34(a)(4) and 265.16(d)(1) and (2) respectively.
- (m) Failed to keep records demonstrating that current and former employees of the facility had successfully completed a program of classroom instruction or on-the-job training that taught them hazardous waste management procedures, as required by section 22a-449(c)-102(a)(2)(K) of the RCSA, incorporating 40 CFR 262.34(a)(4) and 265.16(e).

25. On March 17, 2011, WEED issued Notice of Violation no. WSWDH11012 to the Respondent requiring correction of the violations listed in paragraphs A.24.(a) through (m) of this Consent Order.

26. Based on observations made before the end of the January 11, 2011 inspection, the Respondent has corrected the violation listed in subparagraph A.24.(b) of this Consent Order.

27. Based on documentation the Respondent submitted to the Department dated April 12, 2011, the Respondent has corrected the violations listed in subparagraphs A.24.(a), (d), (f), and (g) of this Consent Order.

28. Based on documentation the Respondent submitted to the Department dated April 12, 2011, the Respondent will be operating as a small quantity generator of hazardous waste. Therefore, the violations listed in subparagraphs A.24.(h), (i), (k), (l) and (m) of this Consent Order will be corrected through the Respondent's continuing operating as a small quantity generator.

29. Based on documentation the Respondent submitted to the Department dated May 24, 2011, the Respondent has corrected the violations listed in subparagraphs A.24.(c) and (e) of this Consent Order.

30. Based on documentation the Respondent submitted to the Department dated June 27, 2011, Respondent has corrected the violation listed in paragraph A.24.(j) of this Consent Order.
- B. With the agreement of the Respondent, the Commissioner, acting under §§22a-6, 22a-131, 22a-171, 22a-174, 22a-177, 22a-178 and 22a-449 of the Connecticut General Statutes ("CGS"), orders the Respondent as follows:

*Requirements related to air emissions:*

1. Air Civil Penalty. On or before thirty (30) days after issuance of this Consent Order, the Respondent shall pay a penalty of thirteen thousand, eight hundred and twenty five dollars (\$13,825) as the total civil penalty to be sought by the Commissioner for the violations described in Paragraph A.22 of this Consent Order.
2. Payment of penalties. Payment of the penalty required under Paragraph B.1 of 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. 2011003DEP".
3. Supplemental Environmental Project..
  - (a) In addition to the thirteen thousand, eight hundred and twenty five dollars (\$13,825) civil penalty referenced in Paragraph B.1 of this Consent Order, the Respondent has agreed to provide funding to the Department's Statewide SEP Account.
  - (b) On or before thirty (30) days after issuance of this Consent Order, the Respondent shall pay thirteen thousand, eight hundred and twenty five dollars (\$13,825) to the Statewide SEP Account. The payment 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 Treasurer, State of Connecticut, with notation thereon "Statewide SEP Account" and "Consent Order #2011003DEP".
  - (c) If the Respondent disseminates any publicity regarding funding an SEP, the Respondent shall include that such funding is in partial settlement of an enforcement action brought by the commissioner.
  - (d) The Respondent shall not claim or represent that the 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 the Respondent shall not seek or obtain any other tax benefit such as a tax credit as a result of the payment under this paragraph.

*Requirements related to hazardous waste*

4. Status of Notice of Violation no. WSWDH11012. This Consent Order supersedes Notice of Violation No. WSWDH11012.
5. Hazardous waste civil penalty. On or before thirty (30) days after issuance of this Consent Order, the Respondent shall pay a penalty of five thousand, three hundred dollars (\$5,300) as the total civil penalty to be sought by the Commissioner for the violations described in Paragraph A.24 of this Consent Order.
6. Payment of penalties. Payment of the penalty required under Paragraph B.5 of 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" and "Consent Order No. 2011003DEP". Copies of the check and any transmittal letter shall also be sent to Julie Dutton in the Bureau of Materials Management and Compliance Assurance at the same address.
7. Supplemental Environmental Projects.
  - (a) In addition to the five thousand, three hundred dollar (\$5,300) civil penalty referenced in Paragraph B.5 of this Consent Order, the Respondent has agreed to provide funding to the Department's Statewide SEP Account.
  - (b) On or before thirty (30) days after issuance of this Consent Order, the Respondent shall pay ten thousand dollars (\$10,000) to the Statewide SEP Account. The payment 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 Treasurer, State of Connecticut, with notation thereon "Statewide SEP Account" and "Consent Order #2011003DEP".
  - (c) If the Respondent disseminates any publicity regarding funding an SEP, the Respondent shall include that such funding is in partial settlement of an enforcement action brought by the commissioner.
  - (d) The Respondent shall not claim or represent that the 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 the Respondent shall not seek or obtain any other tax benefit such as a tax credit as a result of the payment under this paragraph.
8. Full compliance. The 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.
9. Approvals. The 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 the Respondent

that any document or other action is deficient, and does not approve it with conditions or modifications, it is deemed disapproved, and the 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.

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 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.
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 the Respondent or, if the Respondent is not an individual, by the 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 the Respondent or the 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 §53a-157b of the Connecticut General Statutes and any other applicable law."
13. 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 the Respondent to an injunction and penalties.
14. False Statements. Any false statement in any information submitted pursuant to this Consent 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 the Respondent. Until the Respondent has fully complied with this Consent Order, the 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. The 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.
16. 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 the 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 the Respondent to undertake further investigation or further action to prevent or abate violations or pollution.
17. The Respondent's obligations under law. Nothing in this Consent Order shall relieve the Respondent of other obligations under applicable federal, state and local law.
18. 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 the Respondent pursuant to this Consent Order will result in compliance.
19. 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.
20. 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.
21. Notice to Commissioner of changes. Within fifteen (15) days of the date the 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, the Respondent shall submit the correct or omitted information to the Commissioner.
22. Notification of noncompliance. In the event that the 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, the 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, the 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 the Respondent shall comply with any dates which may be approved in writing by the Commissioner. Notification by the 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.

23. Submission of documents. Any document required to be submitted to the Commissioner under paragraphs B.1 through B.3 of this Consent Order shall, unless otherwise specified in writing by the Commissioner, be directed to :

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

Any document required to be submitted to the Commissioner under paragraphs B.4 through B.7 of this Consent Order shall, unless otherwise specified in writing by the Commissioner, be directed to :

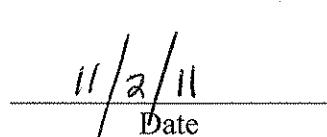
Mr. Brent Madho  
Department of Energy and Environmental Protection  
Bureau of Materials Management and Compliance Assurance  
Waste Engineering and Enforcement Division  
79 Elm Street  
Hartford, CT 06106-5127

The 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.

## EYELEMATIC MANUFACTURING COMPANY, INC.

Signature: Type Name: Thomas W. BauerType Title: Vice President of operationsDate: 11-2-11

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

  
FOR Daniel C. Esty  
Commissioner  
11/2/11  
Date

\*Department of Energy and Environmental Protection  
  
\*Public Act 11-80, effective July 1, 2011, established the  
Department of Energy and Environmental Protection as the  
successor agency to the Department of Environmental  
Protection.

TOWN OF WATERTOWN  
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