

## STATE OF CONNECTICUT

V.

### CLEAN HARBORS OF CONNECTICUT, INC.

CONSENT ORDER NO. 2019004DEEP

DATE ISSUED: 7/1/2019

- A. With the agreement of Clean Harbors of Connecticut, Inc. ("Respondent"), the Commissioner of Energy and Environmental Protection ("the Commissioner") finds:
1. Respondent is a Delaware corporation registered to do business in Connecticut with the Connecticut Secretary of the State.
  2. Respondent's registered business address listed with the Connecticut Secretary of the State is 42 Longwater Drive, Norwell, Massachusetts 02061.
  3. Respondent is or has engaged in the business of commercially storing and/or treating hazardous and non-hazardous waste at 51 Broderick Road, Bristol, Connecticut and more fully described as Assessor's Map 04, Block 3 and Lot H on the land records of the Town of Bristol, Connecticut. The property will hereinafter be referred to as the "Site".
  4. On September 13, 2013 the Department of Energy and Environmental Protection ("DEEP") issued Respondent Permit No. DEEP/HWM-017-004 (the "Permit") to operate a commercial hazardous waste facility at the Site in accordance with the Resource Conservation and Recovery Act ("RCRA") and Section 22a-454 of the Connecticut General Statutes.
  5. Staff from the Bureau of Materials Management and Compliance Assurance, Waste Engineering and Enforcement Division ("WEED") conducted a records review focused on an emergency event that occurred at the Site on May 26, 2018. Based upon the records review, WEED found that the Respondent failed to:
    - a. **Test and maintain all safety equipment as necessary to ensure its proper operation in the event of an emergency as required by Section IV(H)(3) of the Permit, which incorporates Title 40 of The Code of Federal Regulations ("CFR") Section 264.33.** DEEP found that the primary device used to inform the Emergency Coordinator of an emergency at the Site (i.e., cellular phone), failed to properly operate during an emergency event at the Site. More specifically, due to poor service in the area, the phone failed to receive a call that was intended to notify the Emergency Coordinator of a hydrogen sulfide release which occurred at the Site on May 26, 2018 ("emergency event"). In addition, the CrowCon alarm system utilized at the Site to notify the security monitoring company (Sonitrol) failed to properly operate during the emergency event due to a malfunction.

- b. Ensure that at all times there shall be at least one Emergency Coordinator on the facility premises or on call and available to respond to an emergency event by reaching the facility within a short period of time, with the responsibility for coordinating all emergency response measures, as required by Section IV(I)(5) of the Permit, which incorporates 40 CFR 264.55.** DEEP found that the facility's Primary Emergency Coordinator was in Florida at the time of the emergency event; therefore prohibiting him from reaching the Site within the prescribed response timeframes. In addition, the facility's Secondary Emergency Coordinator could not be reached to respond to the emergency as indicated in subparagraph 5.a. above. Therefore, the Secondary Emergency Coordinator could not perform the required Emergency Coordinator responsibilities, including those identified in Section IV(I)(6) of the Permit.
6. By virtue of the above, the Respondent has violated Regulations of Connecticut State Agencies ("RCSA") Section 22a-449(c)-100, et. seq., and the Permit issued pursuant to RCRA and Section 22a-454 of the Connecticut General Statutes ("CGS").
7. On July 19, 2018, WEED issued Notice of Violation No. WSWDH18033 to the Respondent to correct the violations corresponding to those cited in subparagraphs A.5.a. and A.5.b. of this consent order.
8. On August 7, 2018, WEED received a submittal in response to Notice of Violation No. WSWDH18033 in which the Respondent reported that all violations in paragraph A.5. were addressed.
9. On January 20, 2009, the Commissioner issued State Permit No. SP0000109 to Respondent for the discharge of up to 100,000 gallons per day of centralized waste treatment wastewater to the Bristol POTW. Respondent submitted a timely application to renew Permit No. SP0000109 on July 23, 2013, Application No. 201303550. The application was deemed sufficient. DEEP issued a Notice of Sufficiency on September 25, 2013, continuing Permit No. SP0000109 in effect until such time as the Commissioner disposes of the renewal application.
10. On February 13, 2008, the Commissioner approved remedial actions proposed by the Respondent to reduce the formation and release of hydrogen sulfide gas in DSN 201-1 of State Permit No. SP0000109.
11. DEEP Bureau of Materials Management and Compliance Assurance Water Permitting and Enforcement Division ("WPED") conducted a review of the incident involving a hydrogen sulfide gas release which occurred at the Site on May 26, 2018. Based upon that review, Respondent failed to maintain practices, procedures, and facilities designed to prevent, minimize and control unplanned releases of toxic or hazardous materials as required by Section 22a-430-(3)(p) of RCSA.
12. On August 30, 2018, an inspection was conducted by WPED. Based upon that inspection, the Respondent has:
  - a. Failed to properly prepare a Stormwater Pollution Prevention Plan ("SWPPP") in accordance with Section 5(c) of the General Permit for the Discharge of Stormwater Associated with Industrial Activities (the "stormwater general permit").
  - b. Failed to properly operate and maintain the wastewater treatment system in compliance with the engineering report titled "Sulfide Discharge Summary Report" that was submitted to fulfill the requirements of subparagraph B.5.j. of Consent Order No. WC5427 issued on July 25, 2006. The report and its associated remedial actions were approved by DEEP on February 13, 2008.

13. By virtue of the above, there has been a substantial change in the manner, nature or volume of the discharge from the Site which will cause or threaten pollution to the waters of the state, or the system treating the discharge, or the operation thereof, no longer insures or adequately protects against pollution of the waters of the state and Respondent has created or is maintaining a facility or condition which reasonably can be expected to create a source of pollution to the waters of the State and has violated a permit issued under Section 22a-430 of the CGS.
  14. On October 25, 2018, WPED issued Notice of Violation No. NOVWRIN18022 to the Respondent to correct the violations corresponding to those cited in paragraphs A.11., and A.12. of this consent order.
  15. On December 11, 2018, Respondent submitted a written response to Notice of Violation No. NOVWRIN18022. Respondent submitted additional information on January 31, 2019 and February 8, 2019. These responses failed to adequately address the cited violations.
  16. By agreeing to the issuance of this consent order, Respondent makes no admission of fact or law with respect to matters addressed herein other than the facts asserted in paragraphs A.1. through A.4., A.9. and A.10. of this consent order.
- B. With the agreement of Respondent, the Commissioner, acting under Sections 22a-6, 22a-425, 22a-427, 22a-430, 22a-430b, 22a-432, 22a-433, 22a-438 and 22a-449 of the CGS, orders Respondent as follows:
1. Compliance Assurance. Respondent shall maintain its compliance with all applicable provisions of the RCSA Sections 22a-449(c)-100, et. seq. and the Permit, including but not limited to those regulations and permit conditions identified in paragraph A.5. above. In particular:
    - a. On or before **sixty (60) days** after 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 it has undertaken or will undertake to ensure compliance with: 1) Connecticut's hazardous waste management regulations RCSA Section 22a-449(c)-100, et. seq.; and 2) the Permit including, but not limited to, those set forth in paragraph A.5. 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. On or before **ninety (90) days** after issuance of this consent order, Respondent shall submit for the Commissioner's review and written approval, a complete Spill Prevention and Control Plan that meets the requirements of Wastewater Discharge Permit Application *Attachment K: Spill Prevention and Control Plan Checklist* (DEEP-WPED-APP-105).
  3. On or before **one hundred twenty (120) days** after issuance of this consent order, Respondent shall amend its Stormwater Pollution Prevention Plan to include the entire site in accordance with Section 5(c) of the stormwater general permit or demonstrate that Safety Kleen has obtained coverage under the stormwater general permit.
  4. The Respondent shall evaluate and implement actions necessary to limit and control the formation and release of hydrogen sulfide gas in the Respondent's wastewater as soon as possible but in no event later than **three hundred and sixty-five (365) days** after the date of issuance of this consent order in accordance with the following:
    - a. On or before **sixty (60) days** after the date of issuance of this consent order, the Respondents shall identify, for the Commissioner's review and written approval, one or more qualified consultant(s) to prepare the documents and oversee the actions required by this Order. The Respondents shall retain one or more qualified consultants as approved by the Commissioner until they comply with

this consent order. Within ten (10) days after retaining any qualified consultant(s) other than one originally identified and approved under this paragraph, the Respondents shall notify the Commissioner in writing of the identity of and receive written approval of such other qualified consultant(s) from the Commissioner. In order to seek approval of a qualified consultant(s), Respondents shall submit to the Commissioner a description of a qualified consultant(s)' education, experience and training which is relevant to the work required by this consent order. The consultant(s) retained to prepare the documents and implement or oversee the actions required by this consent order must be an independent, registered professional engineer in the State of Connecticut ("P.E."). Nothing in this paragraph shall preclude the Commissioner from finding a previously acceptable consultant unacceptable.

- b. On or before **one hundred twenty (120) days** after the date of issuance of this consent order, the Respondent shall submit for the Commissioner's review and written approval a scope of study for an investigation of alternative actions necessary to limit and control the formation and release of hydrogen sulfide gas in the Respondent's facility. The scope of study shall include a substantive plan and schedule, for the Commissioner's review and written approval, for conducting the investigation, reporting to the Commissioner on the results of such investigation, and implementation of the preferred alternative, including an evaluation of which alternatives are prudent and feasible.

If the investigation carried out under an approved scope of study does not fully characterize methods necessary to limit and control the formation and release of hydrogen sulfide gas in the Respondent's wastewater to the satisfaction of the Commissioner, additional investigations shall be performed in accordance with a supplemental plan and schedule approved in writing by the Commissioner.

- c. On or before **sixty (60) days** after the Commissioner's approval of the scope of study pursuant to subparagraph B(4)(b), the Respondent shall submit for the Commissioner's review and written approval a comprehensive and thorough report developed in accordance with the approved scope of study which describes and evaluates alternative actions which may be taken by the Respondent to limit and control the formation and release of hydrogen sulfide gas in the Respondent's wastewater. Such report shall:
- i. describe conditions that lead to the formation of hydrogen sulfide gas in the Respondent's wastewater;
  - ii. determine and identify all substances (and their source) contributing to the formation of hydrogen sulfide gas in the Respondent's wastewater;
  - iii. evaluate the placement of existing hydrogen sulfide detectors;
  - iv. evaluate appropriate hydrogen sulfide detectors warning/alarm set point levels to determine the effectiveness of the wastewater treatment system;
  - v. evaluate alternative actions to reduce or eliminate the formation of hydrogen sulfide gas in the Respondent's wastewater, including but not limited to, pollutant source reduction, process changes/innovations, chemical substitutions, recycle and zero discharge systems, water conservation measures, and other internal and/or end-of-pipe treatment technologies;
  - vi. evaluate actions necessary to prevent treated wastewater in the final effluent tanks from going below a pH of 7.0 S.U.;
  - vii. state in detail the most expeditious schedule for performing each alternative;

- viii. list all permits and approvals required for each alternative, including but not limited to any permits required under sections 22a-32, 22a-42a, 22a-342, 22a-361, 22a-368, 22a-430, or 22a-430b of the Connecticut General Statutes;
  - ix. propose a preferred alternative or combination of alternatives with supporting justification; and
  - x. propose a detailed program and schedule to perform all actions required by the preferred alternative including but not limited to a schedule for submission of; engineering plans and specifications on any internal and/or end of pipe treatment facilities, start and completion of any construction activities related to any treatment facilities, applying for and obtaining all permits and approvals required for such actions.
- 5. On or before **one hundred eighty (180) days** after the date of issuance of this consent order, Respondent shall certify in writing to the Commissioner that it has a comprehensive, current and fully implemented Environmental Management System ("EMS") that meets, at a minimum, the requirements of ISO 14001. Respondent's EMS shall provide a framework for improving environmental management and maintaining effective environmental performance, and shall address and incorporate, but not be limited to, the following elements: organizational structure, resources, responsibilities and authorities; operational control, planning, communication, emergency preparedness and response; competencies, training and awareness; document control, reporting and record keeping.
- 6. On or before **three hundred sixty-five (365) days** after issuance of this consent order, Respondent shall submit for the Commissioner's review and written approval, a complete Operation and Maintenance of Collection and Treatment Systems Plan that at a minimum meets the requirements of Wastewater Discharge Permit Application *Attachment I: Operation and Maintenance of Collection and Treatment Systems Plan Checklist* (DEEP-WPED-APP-103). Such plan shall include:
  - a. A description of logs to be kept to monitor hydrogen sulfide warnings and alarms events. The logs shall be maintained on site and records retained for a minimum of five (5) years. A copy of the log shall be submitted with the permits Discharge Monitoring Report ("DMR") for each reporting period. All log entries shall include:
    - i. date and time of event;
    - ii. location of detector that triggered the event;
    - iii. concentration of hydrogen sulfide gas detected;
    - iv. personnel responding; and
    - v. remedial or other action(s) taken.
  - b. Steps to be taken to assure the wastewater treatment system is attended by trained qualified staff at all times while wastewater is present in the final effluent tanks.
  - c. Annual drills to practice and assess hydrogen sulfide alarm conditions, simulate points of failure, and contingencies measures. Drills shall be coordinated with the City of Bristol Fire Department.
- 7. 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.

8. Status of Notice of Violation No. WSWDH18033. This consent order supersedes Notice of Violation No. WSWDH18033.
9. Civil penalty for violations. On or before **fourteen (14) days** after the date of issuance of this consent order, Respondent shall pay a civil penalty of **one hundred fifty one thousand five hundred dollars (\$151,500)** as the total civil penalty to be sought by the Commissioner for those, and only those, violations described in paragraphs A.5., A.11., and A.12. of this consent order. Payment shall be made in accordance with the provisions of paragraph B.10.
10. Payment of penalties. Payment of penalties under paragraph B.9. 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 "Connecticut Department of Energy and Environmental Protection." The check shall state in the memo notation, "Bureau of Materials Management and Compliance Assurance, Waste Engineering and Enforcement Division and Water Permitting and Enforcement Division civil penalty" and the consent order number identified at the top of page one of this consent order. Copies of the check and any transmittal letter shall also be sent to Ms. Julie Dutton in the Bureau of Materials Management and Compliance Assurance, Waste Engineering and Enforcement Division, at the same address.
11. 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.
12. 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.
13. Definitions. As used in this consent order, "Commissioner" means the Commissioner or a representative of the Commissioner.
14. 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.

15. 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."
16. 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.
17. 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.
18. 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.
19. Commissioner's powers. Except as provided hereinabove with respect to payment of civil penalties pursuant to this consent order, 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 not otherwise addressed by this consent order. 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.
20. Respondent's obligations under law. Nothing in this consent order shall relieve Respondent of other obligations under applicable federal, state and local law.
21. 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.

22. 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.
23. 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.
24. 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.
25. 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.
26. Submission of documents. Any document required to be submitted to the Commissioner under paragraph B.1. this consent order shall, unless otherwise specified in this consent order or in writing by the Commissioner, be directed to:

Mr. Paul Franson, Environmental Analyst 3  
Bureau of Materials Management and Compliance Assurance  
Waste Engineering and Enforcement Division  
Department of Energy and Environmental Protection  
79 Elm Street  
Hartford, Connecticut 06106-5127

Any document required to be submitted to the Commissioner under paragraphs B.2. through B.6. of this consent order shall, unless otherwise specified in this consent order or in writing by the Commissioner, be directed to:

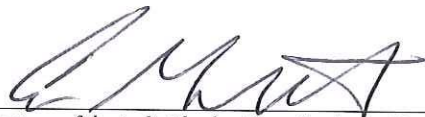
Stephen Edwards, Sanitary Engineer 3  
Bureau of Materials Management and Compliance Assurance  
Water Permitting and Enforcement Division  
Department of Energy and Environmental Protection  
79 Elm Street  
Hartford, Connecticut 06106-5127

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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.

**Clean Harbors of Connecticut, Inc.**

BY:

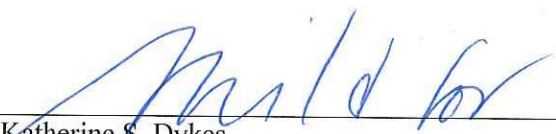
  
(Signature of the individual with authority to bind Respondent to terms of consent order)

ERIC GERSTENBERG  
Name (typed)

COO  
Title

6/20/19  
Date

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

  
Katherine S. Dykes  
Commissioner  
Department of Energy and Environmental Protection

7/1/19  
Date

CONSENT ORDER NO. 2019004DEEP

Town of Bristol Land Records