



STATE OF CONNECTICUT

vs.

STRATEGIC MATERIALS, INC.

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ORDER NO. 2532

CONSENT ORDER

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

1. The Respondent engages in the business of processing and distributing recycled glass, aluminum and cardboard at 300 Rye Street in South Windsor, CT ("Facility").
2. The Respondent maintains and operates three process lines that sort, dry, crush and package glass. The process lines are hereinafter known as the glass processing operation. The glass processing operation creates emissions of particulate matter which includes glass dust. Glass dust is considered a hazardous air pollutant ("HAP") under the Regulations of Connecticut State Agencies ("Regulations").
3. The Respondent uses baghouses to capture and control particulate matter generated from the glass processing operation.
4. The glass processing operation has a potential to emit 15 tons or more of particulate matter and was subject to New Source Review ("NSR") permit no. 169-0098 issued in March 2015.
5. Pursuant to Section 22a-174-2a(g)(1) of the Regulations, no person shall act or purport to act under the authority of a permit issued to another person unless such permit has been transferred in accordance with Section 22a-60 of the Connecticut General Statutes. Also, pursuant to Section 22a-60 of the Connecticut General Statutes, the permit transfer shall be completed within 30 days upon the completion of the business transfer.
6. On December 20, 2015, the Respondent purchased the business from Reflective Recycling of New England, LLC. On January 19, 2016, The Respondent failed to transfer NSR permit no. 169-0098 as required by Section 22a-174-2a(g)(1) of the Regulations and Section 22a-60 of the Connecticut General Statutes.
7. Whereas the Respondent failed to transfer NSR permit no. 169-0098, the Department of Energy & Environmental Protection ("Department") determined that the Respondent violated Section 22a-174-2a(g)(1) of the Regulations and Section 22a-60 of the Connecticut General Statutes. Consequently, the

Issued Date: 8/12/2020

Department issued Notice of Violation ("NOV") no. 18010 for the violation on October 8, 2019.

8. Pursuant to Section 22a-174-3a(a)(1)(D) of the Regulations, no person shall operate a stationary source that has the potential to emit 15 tons or more per year of any individual air pollutant unless an operating permit is obtained.
9. As a result of the Respondent's failure to transfer NSR permit 169-0098 upon the purchase of the business in December 2015, the glass processing operation lost coverage under NSR permit no. 169-0098. Consequently, the Respondent operated the glass processing operation without any permits.
10. Whereas the Respondent failed to obtain an operating permit for the glass processing operation, the Department determined that the Respondent violated Section 22a-174-3a(a)(1)(D) of the Regulations. Consequently, the Department issued NOV no. 18026 for the violation on January 9, 2020.
11. Pursuant to Sections 22a-174-18(c)(1)-(3) of the Regulations, no person shall cause or allow materials to be handled without taking reasonable precautions to prevent particulate matter from becoming airborne; travel beyond the facility's property line; and be emitted into the ambient air in such a manner as to cause a nuisance.
12. In July 2019, the Department received a dust complaint from the public that prompted several investigations at the facility.
 - a. On July 26, 2019, the Department investigated the facility and observed the Respondent loading processed glass into a truck bed and as result of such loading activity, particulate matter became airborne and traveled beyond the facility's property line and was deemed a nuisance.
 - b. On September 10, 2019, the Department conducted an inspection and observed particulate matter emanating from the facility's conveyors, windows, doors and rooftop.
13. Whereas the Respondent failed to install adequate measures to prevent the release of particulate matter, the Department determined that the Respondent violated Section 22a-174-18(c) of the Regulations. Consequently, the Department issued NOV no. 17994 for the violation on October 8, 2019.
14. By virtue of the above, the Respondent has violated Sections 22a-174-2a(g)(1), 22a-174-3a(a)(1)(D) and 22a-174-18(c) of the Regulations and Section 22a-60 of the Connecticut General Statutes.
15. In response to the violations referenced in paragraph A.12. of this Consent Order, the Respondent submitted a compliance statement. The Department reviewed the compliance statement and determined that the Respondent failed to adequately address all of the violations referenced in paragraph A.12. of this Consent Order.
16. The Department determined that NSR permit no. 169-0098 is no longer valid because Reflective Recycling of New England, LLC is no longer in business.
17. On June 1, 2020, the Respondent submitted a permit application for the glass processing operation for the Department's review and approval in accordance with Section 22a-174-3a of the Regulations.

B. With the agreement of the Respondent, the Commissioner, acting under §§22a-6, 22a-171, 22a-174, 22a-177, and 22a-178 of the Connecticut General Statutes orders the Respondent as follows:

1. The Respondent shall comply with Section 22a-174-18 of the Regulations.
2. Within sixty (60) days after issuance of this Consent Order, the Respondent shall submit for the Commissioner's review and written approval a Dust Mitigation Plan and schedule to address the violations referenced in paragraph A.12 of this Consent Order.
 - a. Upon receipt of the Commissioner's approval of the Dust Mitigation Plan and schedule, the Respondent shall comply with the approved Dust Mitigation Plan and schedule.
 - b. Until the Respondent's corrective actions result in the prevention and abatement of violation of Section 22a-174-18(c) of the Regulations to the Commissioner's satisfaction, the Respondent shall submit a written supplemental plan and schedule for the implementation of additional corrective action. The Respondent shall submit the plan and schedule within thirty (30) days of receipt of notice from the Commissioner that additional corrective action is required. The plan and schedule shall be subject to the Commissioner's review and written approval and/or amendment. The Respondent shall complete all additional corrective actions according to the schedule approved by the Commissioner.
3. Statewide Supplemental Environmental Project (SEP) Account Payment.
 - a. The Respondent may elect to pay \$19,600 to the Statewide SEP account.
 - b. If the Respondent elects to make a payment to the Statewide SEP account, the Respondent shall make such payment within thirty (30) days after issuance of this Consent Order. 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. The payment shall be by certified or bank check payable to the "Connecticut Department of Energy and Environmental Protection." The check shall state on its face, "Statewide SEP Account" and "Consent Order 2532."
 - c. If the Respondent elects to make a payment of \$19,600 to the Statewide SEP account, the Respondent shall also pay a civil penalty of \$19,600 within thirty (30) days after issuance of this Consent Order. 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. The payment 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 Air Management Civil Penalty, Air Engineering & Enforcement Division, Consent Order 2532."
 - d. The Respondent shall not claim or represent 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. 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.

- e. If the Respondent disseminates any publicity, including but not limited to any press releases regarding funding a SEP, the Respondent shall include a statement that such funding was made in settlement of an enforcement action brought by the Commissioner.
4. Civil Penalty. In lieu of payment of the SEP referenced in Paragraph B.3, on or before thirty (30) days after issuance of this Consent Order, the Respondent shall pay a penalty of thirty-nine thousand and two hundred dollars (\$39,200) as the total civil penalty to be sought by the Commissioner for the violations identified in paragraphs A.7, A.10, A.13 & A.14 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 Treasurer, State of Connecticut. The check shall state on its face, "Bureau of Air Management Civil Penalty, Consent Order No. 2532."
6. 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.
7. Approvals. Respondent shall use best efforts to submit to the Commissioner documents, if any, 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 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 Respondent or 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 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 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.

17. Access to site. Any representative of the Department of 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.
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 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 writing by the Commissioner, be directed to:

Mr. Seng Phouthakoun
Department of Energy and Environmental Protection
Bureau of Air Management
Enforcement Division
79 Elm Street
Hartford, Connecticut 06106-5127
860 424-4152

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.

Strategic Materials, Inc.

Signature: C. Dykes

Type Name: C. Dykes

Type Title: CEO

Date: 8/7/20

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

Betsy Wingfield for
Katherine S. Dykes, Commissioner
Department of Energy and Environmental Protection

August 12, 2020
Date

TOWN OF SOUTH WINDSOR
LAND RECORDS
MAILED CERTIFIED MAIL,
RETURN RECEIPT REQUESTED
Certified Document No. 94 148 1490 1585922 107235

