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STATE OF CONNECTICUT	)	Order No. 2678
	)	
VS.	)	2024-LADV-0014
	)	
CITY OF NEW HAVEN	)	
DEPARTMENT OF PUBLIC WORKS	)	

CONSENT ORDER

A. With the agreement of the City of New Haven (Respondent), the Commissioner of Energy and Environmental Protection (Commissioner) finds the following:

1. The Respondent owns, leases, operates, or controls a gasoline dispensing facility (GDF) located at 34 Middletown Avenue in New Haven, Connecticut.

2. The Respondent has a monthly gasoline throughput of 10,000 gallons or more at the GDF and is subject to the requirements in Section 22a-174-30a of the Regulations of Connecticut State Agencies (RCSA).

3. As required by RCSA Section 22a-174-30a(c), the GDF is equipped with a Stage I vapor recovery system.

4. Pursuant to RCSA Section 22a-174-30a(d)(1), the owner or operator of any GDF shall conduct each of the following tests at least once per calendar year: a pressure/vacuum vent valve test for every pressure/vacuum vent valve, a pressure decay test, and a vapor-space tie-in test.

5. Pursuant to RCSA Section 22a-174-30a(d)(2), the owner or operator of any GDF constructed on and after July 15, 2015, shall conduct each of the following tests within sixty (60) days of initial operation: a pressure/vacuum vent valve test for every pressure/vacuum vent valve, a pressure decay test, and a vapor-space tie-in test.

6. Whereas the Department of Energy and Environmental Protection (DEEP) records indicated that the Respondent failed to conduct Stage I vapor recovery testing in 2022, the Commissioner determined that the Respondent violated RCSA Section 22a-174-30a(d)(1).

7. Whereas DEEP records indicated that the Respondent failed to conduct Stage I vapor recovery testing within 60 days of initial operation of a newly constructed GDF, the Commissioner determined that the Respondent violated RCSA Section 22a-174-30a(d)(2).

8. By virtue of the above, the Respondent is in violation of RCSA Section 22a-174-30a(d)(1) for calendar year 2022, and RCSA Section 22a-174-30a(d)(2).

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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 RCSA Section 22a-174-30a(d).

2. Civil penalty. The Respondent shall pay a penalty of $600 as the total civil penalty to be sought by the Commissioner for the violation described in paragraphs A.4 through A.8 of this order. This penalty is payable as follows: on or before thirty (30) days after issuance of this order the Respondent shall pay $600 in accordance with paragraph B.3 of this order, or the Respondent shall pay $600 to the Statewide SEP account in accordance with paragraph B.4 of this order.

3. Payment of penalties. On or before thirty (30) days after the issuance of this order, the Respondent shall pay $600 by mail 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. Such 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, "Air Consent Order 2678".

4. Statewide Supplemental Environmental Project (SEP) Account Payment.

   a. In lieu of payment of the civil penalty referenced in Paragraph B.2, the Respondent may elect to pay $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 2678."

   c. 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.

   d. 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.

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5. 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.

6. Approvals. The Respondent shall use best efforts to submit to the Commissioner all documents required by this 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 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.

7. Definitions. As used in this consent order, "Commissioner" means the Commissioner or a representative of the Commissioner.

8. 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.

9. 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-174-2a(a) 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

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punishable as a criminal offense under Section §53a-157b of the Connecticut General Statutes and any other applicable law."

10. 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.

11. 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.

12. Notice of transfer; liability of Respondent. Until the 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. 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.

13. 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 the Respondent to undertake further investigation or further action to prevent or abate violations or pollution.

14. Respondent's obligations under law. Nothing in this consent order shall relieve the Respondent of other obligations under applicable federal, state and local law.

15. 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.

16. 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.

17. 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.

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18. Notice to Commissioner of changes. Within 15 days of the date the Respondent become 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.

19. 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.

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

Crystal Taylor
Department of Energy and Environmental Protection
Bureau of Air Management
Air Enforcement Division
79 Elm Street
Hartford, Connecticut 06106-5127
(860) 434-4152

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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 Respondent to the terms and conditions of the consent order.

City of New Haven
Department of Public Works

Signature: DocuSigned by: Justin Elicker AA6604C8D0B8482...

Type Name: Justin Elicker

Type Title: Mayor

Date: May 9, 2024 | 2:22 PM EDT

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

Approved as to Form & Correctness:

DocuSigned by: Catherine E. LaMarr 2E27F354EB53497...

Catherine E. LaMarr
Deputy Corporation Counsel

DocuSigned by: Emma Cimino 2E6BEE9EF1D1492...

Emma Cimino, Deputy Commissioner
Department of Energy and Environmental Protection

5/14/2024

Date