

**STATE OF CONNECTICUT  
DEPARTMENT OF ENVIRONMENTAL PROTECTION**



**STATE OF CONNECTICUT**

**V.**

**CARE ENVIRONMENTAL CORPORATION**

**CONSENT ORDER no. COWSWDH 11005**

**Date Issued:** March 8, 2011

- A. With the agreement of Care Environmental Corporation (“Respondent”), the Commissioner of Environmental Protection (“the Commissioner”) finds:
1. Respondent is a New Jersey corporation, with its principal place of business located at 10 Orben Drive in Landing, New Jersey. Respondent is authorized to operate in Connecticut under the conditions of the Department of Environmental Protection’s (“DEP”) General Permit to Perform One Day Collections of Certain Wastes and Household Hazardous Waste (“the HHW General Permit”), issued September 30, 2009.
  2. On October 7, 2009, Respondent’s Registration to operate under the HHW General Permit, no. OOS-0937-HHW, was approved by the Commissioner.
  3. On April 24, 2010, Respondent performed a one-day collection of HHW for the town of Weston at the Public Works facility at 78 Old Hyde Road.
  4. On April 26, 2010, while attempting to remove a 30-cubic yard roll-off container (“roll-off”) containing waste collected during the collection event on April 24, 2010, an employee of City Carting, owner of the roll-off, noticed a release emanating from it and reported the release to the Commissioner. The release migrated towards a drainage swale at the edge of the asphalt area on the south side of the facility.
  5. Based on inspections conducted after the event by DEP’s Waste Engineering and Enforcement Division (“WEED”) on April 26 and 29, and May 3 and 11, 2010, Respondent:

- a. Engaged in a disposal activity not authorized by Section 3.(a) of the HHW General Permit. The General Permit does not authorize the treatment, storage or disposal of any household wastes other than collection and aggregation. Specifically, Respondent's personnel placed numerous containers of HHW in a 30-cubic yard roll-off for disposal as solid waste. About half of these containers were full or had significant contents.
- b. Failed to include an organizational chart and description of duties and responsibilities for on-site personnel and volunteers in its Operation and Management Plan, as required by Section 5.(a)(1)(B)(i) of the HHW General Permit.
- c. Failed to include procedures, in the Operation and Management Plan required by Section 5.(a)(1)(B) of the HHW General Permit, to ensure that each collection site is returned to its original condition upon completion of the collection event, as specified by Section 5.(a)(1)(B)(vi) of the HHW General Permit.
- d. Failed to ensure that there were no uncovered storm drains, watercourses or drainage areas located within one hundred (100) feet of the receiving, sorting and packaging areas at the collection event, as required by Section 5.(a)(5)(iv) of the HHW General Permit. Specifically, there is a swale, which was not covered or otherwise protected from a release, at the collection site which was determined by DEP staff to be only 77 feet from the receiving, sorting and packaging areas used at the time of the collection.
- e. Failed to ensure that all collected wastes were sent to an off-site facility permitted to manage such wastes prior to the Permittee (i.e., Respondent) leaving the collection site, as required by Section 5.(a)(11) of the HHW General Permit. Specifically, after depositing the household hazardous waste into the roll-off on April 24, 2010, Respondent's personnel left the wastes on site and did not ensure that the roll-off containing the waste was removed from the site at the end of the day.
- f. Failed to ensure that the ground surfaces of the receiving, sorting and packaging areas were covered with a sufficiently impervious material that is designed to contain spills, as required by Section 5.(b)(2) of the HHW General Permit. Specifically, the waste-receiving area was not lined with a sufficiently impervious material.
- g. Failed to ensure that all roll-off containers used at the one-day collection were properly lined in plastic sheeting or were otherwise capable of containing any spills or leaks from the containers, as required by Section 5.(b)(3) of the HHW General Permit. Specifically, the plastic sheeting in the roll-off did not contain leaks and spills from containers, due to improper placement and/or an inadequate amount of plastic.

- h. Failed to ensure that all roll-off containers used at the one-day collection were kept covered or located under a tent to prevent the accumulation of precipitation, as required by Section 5.(b)(3) of the HHW General Permit.
  6. On May 7, 2010, WEED issued Notice of Violation no. WSWDH10027 to Respondent to correct the violations listed in paragraphs A.5.a. through h. of this consent order.
  7. On April 26 and May 11, 2010, Veolia Environmental Services performed spill stabilization activity and repackaging of the HHW collected at the Weston Public Works facility. As a result, the violations cited in paragraphs A.5.a. and d. through h. have been corrected or are no longer applicable.
  8. By virtue of the above, Respondent has violated RCSA sections 22a-449(c)-100 through 119, incorporating 40 CFR Parts 260 through 279, and the Department of Environmental Protection's General Permit to Perform One Day Collections of Certain Wastes and Household Hazardous Waste, and created a condition which reasonably could be expected to create a source of pollution to the waters of the state.
  9. 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.
- B. With the agreement of Respondent, the Commissioner, acting under sections 22a-6, 22a-131, 22a-432 and 22a-449 of the Connecticut General Statutes, orders Respondent as follows:
1. Compliance Assurance. Respondent shall correct all violations identified in paragraph A.3. above and shall maintain its compliance with all applicable provisions of the hazardous waste regulations, RCSA sections 22a-449(c)-100, et seq., including but not limited to those regulations applicable to generators of hazardous waste, and the requirements of the Department's General Permit to Perform One Day Collections of Certain Wastes and Household Hazardous Waste, issued September 30, 2009. In particular,
    - a. On or before **thirty (30)** days after issuance of this consent order, Respondent shall retain one or more qualified consultants acceptable to the Commissioner to prepare the documents and implement or oversee the actions required by paragraphs B.1.d. and e. of this consent order and shall, by that date, notify the Commissioner in writing of the identity of such consultant(s). Respondent shall retain one or more qualified consultants acceptable to the Commissioner until this consent order is fully complied with, and, within ten (10) days after retaining any consultant(s) other than one originally identified under this paragraph,

Respondent shall notify the Commissioner in writing of the identity of such other consultant(s). Respondent shall submit to the Commissioner a description of a 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 consultant unacceptable.

- b.
  - i. On or before **sixty (60)** days after issuance of this consent order, Respondent shall excavate the top six (6) inches of soil from the area specified in the December 16, 2010 inspection report, designated as "Attachment" to this consent order, and specifically described by the coordinates noted in the Table on page 2 of such Attachment. This is the area at the Weston, Connecticut, Public Works facility leading from the point at which the 30-cubic yard roll-off, in which the containers with household hazardous waste were stored between April 24, 2010 and April 26, 2010, began to discharge contents out of the roll-off towards the drainage swale on the south side of the facility. Respondent shall submit for the Commissioner's review and written approval the results, with supporting documentation (including analytical data, as appropriate), of a hazardous waste determination performed on the excavated soil.
  - ii. On or before **sixty (60)** days after approval of the results of the hazardous waste determination, Respondent shall remove and dispose of the soil excavated pursuant to paragraph B.1.b. i. above. If the excavated soil is determined to be hazardous, it shall be removed in accordance with all applicable laws by a transporter holding a valid permit from DEP to transport hazardous waste. All excavated soil must be disposed of at appropriately permitted facility.
  - iii. On or before **ten (10)** days after removal of the excavated soil specified in paragraph B.1.b. i. and ii. above, Respondent shall submit to the Commissioner certification that the excavated soil has been removed as required, and documentation demonstrating such removal.
- c. On or before **sixty (60)** days after issuance of this consent order, Respondent shall perform all actions which the Commissioner alleges it failed to perform as specified in paragraphs A.5.b. and c. of this consent order and submit for the Commissioner's review and written approval certification of compliance with any waste handling or HHW General Permit requirements specified in these paragraphs, and documentation demonstrating such compliance.
- d. On or before **sixty (60)** days after issuance of this consent order, Respondent shall submit for the Commissioner's review and written approval:

- i. a plan that details the actions and/or operational changes to ensure future compliance with the Connecticut's hazardous waste management regulations and the requirements of the HHW General Permit. Within **five (5)** days after the Commissioner approves such plan, Respondent shall carry out the plan and maintain it in full effect thereafter;
  - ii. a written description of training that was provided to, and/or will be provided to, Respondent's full and part-time employees;
  - iii. a written description of best management practices, to be included in the Operation and Management Plan required by the HHW General Permit ("O & M Plan"), reflecting actual work practices to be followed, to ensure protection of the environment and safe operations, especially regarding the proper segregation of potentially incompatible materials received during HHW Collection Days;
  - iv. an organizational chart and description of duties and responsibilities for on-site personnel and volunteers, to be included in the O & M Plan; and
  - v. a written description of procedures, to be included in the O & M Plan, to ensure that each collection site is returned to its original condition upon completion of the collection event.
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. WSWDHI10027. This consent order supersedes Notice of Violation no. WSWDHI10027.
4. Civil penalty. Respondent agrees to the assessment of a civil penalty of **nineteen thousand dollars (\$19,000.00)** as the total civil penalty to be sought by the Commissioner for those, and only those, violations described in paragraphs A.3.a. through A.3.h. of this consent order. The penalty shall be paid in four separate payments as follows. The first payment shall be in the amount of **four thousand, seven hundred and fifty dollars (\$4,750.00)** and shall be paid on or before **thirty (30)** days from the date of issuance of this consent order; the second payment shall be in the amount of **four thousand, seven hundred and fifty dollars (\$4,750.00)** and shall be paid on or before **one hundred and twenty (120)** days from the date of issuance of this consent order; the third payment shall be in the amount of **four thousand, seven hundred and fifty dollars (\$4,750.00)** and shall be paid on or before **two hundred and ten (210)** days from the date of issuance of this consent order; the fourth payment shall be in the amount of **four thousand, seven hundred**

**and fifty dollars (\$4,750.00)** and shall be paid on or before **three hundred (300)** days from the date of issuance of this consent order.

5. Supplemental Environmental Project. In lieu of making the third and fourth civil penalty payments prescribed in paragraph B.4. above, Respondent may comply with the requirements of paragraph B.5.a. or b. through i. below regarding Supplemental Environmental Projects ("SEPs") and/or pay additional civil penalties.
- a. On or before **three hundred (300)** days after the date of issuance of this consent order, Respondent shall pay **nine thousand, five hundred dollars (\$9,500.00)** to the Statewide SEP Account. The payment shall be mailed or personally delivered to the Department of 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, "Statewide SEP Account" and "consent order no. COWSWDH11005 \_\_\_\_." 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 at the same address.
  - b. On or before **ninety (90)** from the date of issuance of this consent order, Respondent shall submit for the Commissioner's review and written approval a proposal to perform one or more SEPs ("proposal"). The proposal shall include: a description of the SEP(s), an explanation as to why the particular SEP(s) is (are) being proposed, a schedule for implementation and completion of the SEP(s), itemized costs to be incurred by Respondent in carrying out the SEP(s), and a description of the benefit of the SEP(s) to the general public or the environment. The total expenditure for the proposal shall not be less than **nine thousand, five hundred dollars (\$9,500.00)**. Of this amount, Respondent shall be credited up to **nine thousand, five hundred dollars (\$9,500.00)** to partially fund an (the) SEP(s).
  - c. The Commissioner will either (i) approve the proposal, including in such approval the dollar amount of the penalty offset to be realized by Respondent attributable to the SEP(s) and any additional conditions deemed necessary by the Commissioner; or (ii) disapprove the proposal and notify Respondent, in writing, of deficiencies in the proposal and any additional actions or information required to be taken or supplied by Respondent. The decision to approve or disapprove a SEP shall be in the sole discretion of the Commissioner.
  - d. If the Commissioner approves Respondent's proposal and Respondent fails to perform any approved SEP within the timeframes specified in the proposal, the third and fourth penalty payments shall be due immediately upon notification by the Commissioner. In addition, a **two thousand, five hundred dollar (\$2,500)** penalty shall also be paid at this time for failure to complete the approved proposal. This additional two thousand, five hundred dollar (\$2,500) penalty shall

apply to each SEP which Respondent fails to perform in accordance with the terms and conditions approved by the Commissioner. Any payment made pursuant to this subparagraph shall be made in accordance with paragraph B.5.h. of this consent order. Respondent shall not be given any credit or reduction in the civil penalty provided for by this paragraph if an SEP included in an approved proposal is not fully complied with.

- e. The net present after-tax value of the SEP(s) shall be equivalent to the sums identified in this paragraph or Respondent shall submit certified documentation that no tax credits shall be obtained as a result of the SEP(s) performed under this paragraph.
- f. If and when Respondent disseminates any publicity, including but not limited to any press releases regarding funding a SEP, Respondent shall include a statement that such funding is in partial settlement of an enforcement action brought by the Commissioner.
- g. Respondent shall not claim or represent that 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, and Respondent shall not seek or obtain any other tax benefit such as a tax credit as a result of the payment under this paragraph.
- h. Within **thirty (30)** days after completion of the SEP(s), Respondent shall submit for the Commissioner's review and written approval a comprehensive final report that certifies completion of the SEP(s). Such final report shall include, at a minimum, a narrative history of the project, detailed explanation of its design and implementation, summary of any data collected, complete final accounting of actual project costs including receipts for out-of-pocket costs, and a discussion of environmental benefits resulting from the SEP(s).
- i. Should the Commissioner determine that the actual cost to Respondent in completing an SEP is less than the estimated cost identified in the proposal approved by the Commissioner in accordance with paragraph B.5.c., Respondent shall pay the difference between such actual cost and estimated cost to the Commissioner as unexpended SEP funds. The Commissioner shall notify Respondent in writing of the amount of any such unexpended SEP funds which are due. Respondent shall, within **fourteen (14)** days after the date of such written notice, remit the full amount of the unexpended SEP funds. Payment of unexpended SEP funds shall be by certified or bank check payable to "Treasurer, State of Connecticut" and the check shall state on its face "General Fund, [the Consent Order number]". Respondent shall mail or personally deliver such payment to the Department of Environmental Protection, Bureau of Financial and Support Services, Accounts Receivable Office, 79 Elm Street, Hartford, Connecticut 06106-5127.

6. Payment of penalties. Payment of penalties under this consent order shall be mailed or personally delivered to the Department of 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, "Waste Engineering and Enforcement Division civil penalty, [the consent order number]". A copy 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. Sampling and sample analyses. All 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 U.S. Environmental Protection Agency or the Connecticut Department of Public Health to conduct such 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 and/or 40 CFR 136. 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.
8. 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.
9. Definitions. As used in this consent order, "Commissioner" means the Commissioner or a representative of the Commissioner.
10. 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.

11. 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 section 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 section 53a-157b of the Connecticut General Statutes and any other applicable law.”

12. 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 under Chapters 439, and 445 or 446k of the Connecticut General Statutes.
13. False statements. Any false statement in any information submitted pursuant to this consent order is punishable as a criminal offense under section 53a-157b of the Connecticut General Statutes and any other applicable law.
14. 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. Any future owner of the site may be subject to the issuance of an order from the Commissioner.
15. 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.

16. Respondent's obligations under law. Nothing in this consent order shall relieve Respondent of other obligations under applicable federal, state and local law.
17. 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.
18. Access to site. Any representative of the Department of 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.
19. 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.
20. 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.
21. 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.

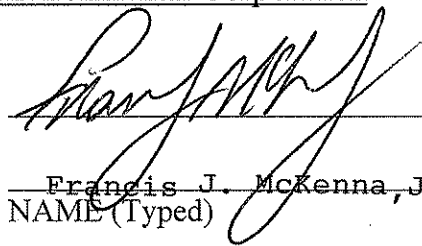
22. Submission of documents. Any document required to be submitted to the Commissioner under this consent order shall, unless otherwise specified in this consent order or in writing by the Commissioner, be directed to:

Justin Williams, Sanitary Engineer  
Department of 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 Respondent to the terms and conditions of the consent order.

Care Environmental Corporation

BY:



Francis J. McKenna, Jr.  
NAME (Typed)

President  
TITLE (Typed)

DATE: 2/24/11

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

  
Amey W. Marrella

Deputy Commissioner, for  
Susan Frechette  
Acting Commissioner

3/7/11  
Date

CONSENT ORDER no. COWSWDH 11005