

STATE OF CONNECTICUT

V.

CURTIS PACKAGING CORPORATION

CONSENT ORDER no. COWSWDH 13012

Date Issued: February 21, 2013

- A. With the agreement of Curtis Packaging Corporation (“Respondent”), the Commissioner of Energy and Environmental Protection (“the Commissioner”) finds:
1. Respondent is a company which is, or has been, engaged in the manufacture of printed and embossed paperboard cartons at 44 Berkshire Road, Newtown, Connecticut (“the site”).
 2. Respondent is or has been a generator of hazardous waste at the site.
 3. Based on an inspection conducted by the Department of Energy and Environmental Protection’s Waste Engineering and Enforcement Division on July 12, 18 and 25, 2012, Respondent:
 - a. Failed to provide initial hazardous waste training for all employees at the facility involved in hazardous waste management as required by the Regulations of Connecticut State Agencies (“RCSA”) section 22a-449(c)-102(a)(1), incorporating Title 40 of the Code of Federal Regulations (“40 CFR”), sections 262.34(a)(4) and 265.16(a). Specifically, there was no documentation on site indicating that hazardous waste training had been provided to Pam Michel, environmental manager and emergency coordinator at the facility.
 - b. Failed to provide annual updates of hazardous waste training for all employees at the facility involved in hazardous waste management as required by RCSA section 22a-449(c)-102(a)(1), incorporating 40 CFR 262.34(a)(4) and 265.16(c). Specifically, no such training was documented for Ms. Michel.
 - c. Failed to maintain job descriptions for each position at the facility related to hazardous waste management as required by RCSA section 22a-449(c)-102(a)(1), incorporating 40 CFR 262.34(a)(4) and 265.16(d)(2). Specifically, at the time of the July 2012 inspection, no job description related to hazardous waste management duties existed on site for Ms. Michel.
 - d. Failed to maintain a written description of initial and continuing training for each position at the facility related to hazardous waste management as required by RCSA section 22a-449(c)-102(a)(1), incorporating 40 CFR 262.34(a)(4) and 265.16(d)(3). Specifically, although

Respondent claimed that Ms. Michel was informally trained by prior emergency coordinators and responders, no record of such training existed.

- e. Failed to maintain records documenting required training or job experience for each position at the facility related to hazardous waste management as required by RCOSA section 22a-449(c)-102(a)(1), incorporating 40 CFR 262.34(a)(4) and 265.16(d)(4). Specifically, at the time of the July 2012 inspection, no records documenting training or job experience related to hazardous waste management existed on site for Ms. Michel.
- f. Failed to keep hazardous waste containers closed except when waste was being added or removed as required by RCOSA section 22a-449(c)-102(a)(1), incorporating 40 CFR 262.34(a)(1)(i) and 265.173(a). Specifically, during the July 2012 inspection, two 55-gallon drums, used to accumulate spent solutions, each had an open funnel in their large bung openings.
- g. Failed to mark containers with the words "Hazardous Waste" and a description of their contents as required by RCOSA section 22a-449(c)-102(a)(2)(J), incorporating 40 CFR 262.34(a)(3), with specified changes. Specifically, one 55-gallon drum in storage at the time of the inspection was not marked with the words "Hazardous Waste" or a description of its contents.
- h. Failed to mark all containers of hazardous waste with the date upon which accumulation began as required by RCOSA section 22a-449(c)-102(a)(1), incorporating 40 CFR 262.34(a)(2). Specifically, one 55-gallon drum in storage at the time of the inspection was not marked with the accumulation start date.
- i. Failed to keep satellite accumulation containers closed except when waste was being added or removed as required by RCOSA section 22a-449(c)-102(a)(1), incorporating 40 CFR 262.34(c)(1)(i) and 265.173(a). Specifically, at the time of the inspection, one 55-gallon drum of spent solvent-based fountain wash located at one of the printing presses, considered to be a satellite accumulation container, had an open bung with a tube through which the container was connected to the press, for the purpose of pumping liquid from the press to the drum, even though no liquid was being pumped into or out of the drum at the time.
- j. Failed to mark satellite accumulation containers with the words "Hazardous Waste" as required by RCOSA section 22a-449(c)-102(a)(2)(N), incorporating 40 CFR 262.34(c)(1)(ii), with specified changes. Specifically, the words "Hazardous Waste" were lacking for two 5-gallon cans, considered to be satellite accumulation containers, of corrosive waste developer located in the preparation room.
- k. Failed to address the hazardous waste container storage area in the inspection schedule for the facility as required by RCOSA section 22a-449(c)-102(b)(2), incorporating 40 CFR 265.15(b)(1) and (4), and 40 CFR 265.174.
- l. Failed to conduct inspections of the hazardous waste container storage area as required by RCOSA section 22a-449(c)-102(a)(1), incorporating 40 CFR 262.34(a)(1)(i) and 265.174.
- m. Failed to record inspections of the hazardous waste container storage area in a log or summary as required by RCOSA section 22a-449(c)-102(b)(2), incorporating 40 CFR

265.15(d).

- n. Failed to update emergency contact information in the contingency plan as required by RCSA section 22a-449(c)-102(a)(1), incorporating 40 CFR 262.34(a)(4) and 265.54(d). Specifically, as of the time of the inspection, emergency coordinator information in the plan was outdated and incorrect.
4. On September 7, 2012, the Department of Energy and Environmental Protection issued Notice of Violation no. WSWDH12116 to Respondent to correct the violations listed in subparagraphs A.3.a. through A.3.n. of this Consent Order.
 5. Respondent immediately corrected the violations cited in subparagraphs A.3.g., A.3.h. and A.3.j. of the consent order when they were identified during the July 2012 inspection. Based on documentation submitted to the Department of Energy and Environmental Protection by Respondent dated October 16, November 16 and December 13, 2012, Respondent has corrected the violations cited in subparagraphs A.3.a. through A.3.f., A.3.i., and A.3.k. through A.3.n. of this consent order as of Respondent's October 16, November 16 and December 13, 2012 submittals.
 6. By virtue of the above, Respondent has violated sections 22a-449(c)-100 through 119 of the RCSA, incorporating 40 CFR, Parts 260 through 279.
- B. With the agreement of Respondent, the Commissioner, acting under Sections 22a-6, 22a-131 and 22a-449 of the Connecticut General Statutes ("CGS"), 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 management regulations, RCSA sections 22a-449(c), et seq., including but not limited to those regulations applicable to generators of hazardous waste identified in paragraph A.3. above. In particular,
 - a. On or before **thirty (30)** days after issuance of this consent order, Respondent shall retain one or more qualified consultant(s) acceptable to the Commissioner to prepare the documents and implement or oversee the actions required by 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. On or before **ninety (90)** days after issuance of this consent order, Respondent shall submit for the Commissioner's review and written approval a comprehensive plan which details the actions and/or operational changes necessary to ensure future compliance with the Connecticut hazardous waste management regulations in RCSA sections 22a-449(c)-100 – 119. Within five (5) days after the Commissioner approves such plan, Respondent shall carry out the plan and maintain it in full effect thereafter.
 - c. Respondent shall conduct a comprehensive recycling review of Respondent's facility to evaluate compliance with Connecticut's recycling laws set forth in section 22a-241b(d) of the CGS and RCSA section 22a-241b-2(1). On or before **ninety (90)** days after the date of issuance of this consent order, Respondent shall submit for the review and written approval of the Commissioner a business recycling profile documenting the management of recyclable materials. The form to be used for completing the profile is included as Attachment A to this consent order.
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. WSWDH12116. This consent order supersedes Notice of Violation no. WSWDH12116.
4. Civil penalty. Respondent shall pay a civil penalty of **twenty thousand, two hundred dollars (\$20,200.00)** as the total civil penalty to be sought by the Commissioner for those, and only those, violations described in paragraph A.3. of this consent order. The penalty shall be paid in two separate installments as follows:
 - a. The first installment shall be in the amount of **ten thousand, one hundred dollars (\$10,100.00)** and shall be due and payable on or before **fourteen (14)** days after the date of issuance of this consent order.
 - b. The second installment shall be in the amount of **ten thousand, one hundred dollars (\$10,100.00)** and shall be due and payable on or before **one hundred and eighty (180)** days after the date of issuance of this consent order.
5. Supplemental Environmental Project(s). In lieu of making the second civil penalty payment prescribed in paragraph B.4., Respondent may comply with the following requirements regarding Supplemental Environmental Projects ("SEPs") and/or pay additional civil penalties.
 - a. Within **sixty (60)** days 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. Respondent shall be credited up to **ten thousand, one hundred dollars (\$10,100.00)** to partially fund an (the) SEP(s).

- b. 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.
- c. Respondent shall perform the SEP(s) in accordance with the project proposal prepared by the Respondent and approved in writing by the Commissioner. Respondent shall perform each such SEP in accordance with the schedule approved by the Commissioner, and shall obtain any federal, state or local permit or approval necessary to carry out such SEP.
- d. If the Commissioner approves Respondent's proposal and Respondent fails to perform any approved SEP within the timeframes specified in the proposal, Respondent shall immediately notify the Commissioner in writing of such noncompliance and shall, upon written request by the Commissioner, remit a payment equal to the total estimated cost, of all such SEPs plus **ten (10)** per cent of such total estimated cost. Within **fourteen (14)** days after the date of the Commissioner's written request, Respondent shall make such payment in accordance with the remittance procedures for unexpended SEP funds in subparagraph B.5.i. 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 an 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 each SEP, Respondent shall submit for the Commissioner's review and written approval a comprehensive final report that certifies

completion of the SEP. Each 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.

- 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 subparagraph B.5.b., 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 "Connecticut Department of Energy and Environmental Protection". The check shall state in the memo notation "Statewide SEP Account" and the consent order number identified at the top of page one of this consent order. Respondent shall mail or personally deliver such payment to the Department of Energy and Environmental Protection, Bureau of Financial and Support Services, Accounts Receivable Office, 79 Elm Street, Hartford, Connecticut 06106-5127. A copy 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.
6. Payment of penalties. Payments of penalties under paragraph B.4. 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, Connecticut 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 civil penalty" and the consent order number identified at the top of page one of this consent order. A copy of each 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.
7. 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.

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 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 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 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."
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 section 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 **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.
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 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.
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 **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.
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 this consent order or in writing by the Commissioner, be directed to:

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

Respondent

BY: 

Pamela Michel
NAME (Typed)

VP Estimating/Purchasing & Environmental Manager
TITLE (Typed)

DATE: 2/11/13

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

2/20/13
Date


Macky McCleary
Deputy Commissioner

CONSENT ORDER no. COWSWDH 13012,