

**STATE OF CONNECTICUT**

**V.**

**CLEAR & COLORED COATINGS, LLC**

**CONSENT ORDER # COWSWDH13020**

**Date Issued:** November 4, 2013

- A. With the agreement of Clear & Colored Coatings, LLC ("Respondent"), the Commissioner of Energy and Environmental Protection ("the Commissioner") finds:
1. Respondent is a Connecticut corporation, which is or has been engaged in the business of performing sulfuric acid anodizing of aluminum parts at 20 Swiss Lane in Wolcott, Connecticut ("the facility").
  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, Bureau of Materials Management and Compliance Assurance, Waste Engineering and Enforcement Division, on April 26, 2013 and May 1, 2013, Respondent:
    - a. Failed to notify for hazardous waste activities and obtain a permanent EPA identification number prior to treating, storing, or disposing of hazardous waste as required by section 22a-449(c)-102(a)(1) of the Regulations of Connecticut State Agencies ("RCSA"), incorporating Title 40 of the Code of Federal Regulations ("40 CFR") 262.12(a). Respondent has been operating at 20 Swiss Lane in Wolcott, Connecticut since at least 2007. Respondent had been storing and offering for transport hazardous waste without having received an EPA identification number. On July 2, 2012 and April 23, 2013, Respondent shipped 330 gallons of spent sulfuric acid as a corrosive hazardous waste (D002) under manifest numbers 009037252JJK and 010277869JJK, respectively. On August 10, 2012, Respondent shipped 1,500 lbs of solids from tank bottoms as a chromium-bearing hazardous waste (D007) under manifest number 010342019JJK.
    - b. Failed to develop and follow a written schedule for inspections of the hazardous waste container storage area, safety and emergency equipment, and the loading/unloading area as required by section 22a-449(c)-102(b)(2) of the RCSA, incorporating 40 CFR 265.15(b). At the time of the hazardous waste compliance inspection, an inspection schedule had not been developed for the facility.

- c. Failed to record inspections in a log or summary as required by section 22a-449(c)-102(b)(2) of the RCSA, incorporating 40 CFR 265.15(d). At the time of the hazardous waste compliance inspection, Respondent did not have records documenting inspections of the loading/unloading area, the physical condition of hazardous waste containers, the hazardous waste container storage area, the secondary containment system, container labeling and marking, and safety and emergency equipment.
  - d. Failed to have a personnel training program as required by section 22a-449(c)-102(a)(1) of the RCSA, incorporating 40 CFR 262.34(a)(4) which requires compliance with 40 CFR 265.16. At the time of the hazardous waste compliance inspection, a hazardous waste training program had not been developed.
  - e. Failed to have a contingency plan as required by section 22a-449(c)-102(a)(1) of the RCSA, incorporating 40 CFR 262.34(a)(4) which requires compliance with 40 CFR 265.51 and 40 CFR 265.52. At the time of the hazardous waste compliance inspection, a contingency plan for the facility had not been written.
4. On May 17, 2013, WEED received EPA Form 8700-12 as initial notification of RCRA Subtitle C activity for Respondent located at 20 Swiss Lane in Wolcott, Connecticut. Therefore, the violation listed in paragraph A.3.a. was corrected upon Respondent obtaining a permanent EPA identification number.
  5. On July 19, 2013, DEEP issued Notice of Violation No. WSWDH13047 to Respondent requiring correction of the violations listed in paragraphs A.3.b. through A.3.e. of this consent order.
  6. On August 15, 2013, Respondent submitted to DEEP a compliance statement, correspondence, and supporting documentation. Based on information Respondent submitted to DEEP on August 15, 2013, Respondent has corrected the violations cited in paragraphs A.3.b. through A.3.e. of this consent order.
  7. By virtue of the above, Respondent has violated RCSA sections 22a-449(c)-100 through 119, 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, orders Respondent as follows:
1. Compliance. Respondent shall correct all violations identified in paragraph A.3. above and shall maintain its compliance with all applicable provisions of Connecticut's hazardous waste management regulations, RCSA sections 22a-449(c)-100 through 119, 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 the date of 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 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 other than the

one originally identified under this paragraph, Respondent shall notify the Commissioner in writing of the identity of such other consultant. The consultant(s) retained to prepare the documents and implement or oversee the actions required to achieve compliance with this consent order shall be a qualified professional engineer licensed to practice in Connecticut or Certified Hazardous Materials Manager ("CHMM") with qualifications acceptable to the Commissioner. 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 it has undertaken or will undertake to ensure future compliance with the Connecticut hazardous waste management regulations including, but not limited to, those set forth in paragraph A.3. of this consent order. The plan shall address, among other things, hazardous waste determinations, waste accumulation, inspection procedures, recordkeeping and reporting, training, emergency planning procedures, container management, manifesting, and transportation. 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 the facility to evaluate compliance with Connecticut's recycling laws set forth in section 22a-241b(d) of the CGS and section 241b-2(1) of the RCSA. 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. An example 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. WSWDH13047. This consent order supersedes Notice of Violation No. WSWDH13047.
  4. Civil penalty. On or before **fourteen (14) days** after issuance of this consent order, Respondent shall pay a penalty of **nine hundred thirty-seven dollars (\$937.00)** 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.
  5. Payment of penalties. Payment of penalties under paragraph B.3. 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 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.

6. Sampling and sample analyses. All sample analyses which are required by this consent order shall be conducted by a laboratory certified by the Connecticut Department of Public Health to conduct such analyses. All sampling and sample analyses performed under this consent 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.
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 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 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 is 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 non-appealable 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 is 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 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:


Ms. Michele DiNoia  
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

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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."

Clear & Colored Coatings, LLC

BY:

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

STEVEN BOSSE

Name (typed)

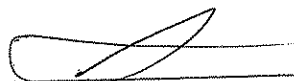
MGR.

Title

10/23/13

Date

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



Macky McCleary  
Deputy Commissioner

11/1/13  
Date

Consent Order No. COWSWDH 13020

Attachment A – Example Business Recycling Profile