

STATE OF CONNECTICUT

V.

Wentworth Laboratories, Inc.

CONSENT ORDER # WSWDH15002

Date Issued: May 6, 2015

- A. With the agreement of Wentworth Laboratories, Inc. (“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 manufacturing at 500 Federal Road in Brookfield, 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 (“DEEP”), Bureau of Materials Management and Compliance Assurance, Waste Engineering and Enforcement Division, on May 6 and 9, 2014, Respondent:
 - a. Failed to perform hazardous waste determinations on all solid waste generated at the facility as required by section 22a-449(c)-102(a)(2)(A) and (B) of the Regulations of Connecticut State Agencies (“RCSA”), incorporating Title 40 of the Code of Federal Regulations (“40 CFR”) 262.11, with specified changes.
 - b. Failed to follow a written inspection schedule and logs for the hazardous waste container storage area and safety and emergency equipment as required by section 22a-449(c)-102(b)(2) of the RCSA, incorporating 40 CFR 265.15(b)(1).
 - c. Failed to conduct weekly inspections of the hazardous waste container storage area as required by section 22a-449(c)-102(b)(2) of the RCSA, incorporating 40 CFR 265.15(b)(4) which requires compliance with 40 CFR 265.174.
 - d. Failed to conduct inspections of safety and emergency equipment at least monthly as required by section 22a-449(c)-102(b)(2) of the RCSA, incorporating 40 CFR 265.15(b)(4) with changes specified in section 22a-449(c)-105(a)(2)(G) of the RCSA.
 - e. Failed to review and immediately amend the contingency plan when the list of emergency coordinators changed as required by section 22a-449(c)-102(a)(2)(K) of the RCSA, incorporating 40 CFR 262.34(a)(4) which requires compliance with 40 CFR 265.54(d).

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- f. **Failed to submit copies of an updated contingency plan to local authorities (police, fire, hospital, and emergency response teams) as required by section 22a-449(c)-102(a)(2)(K) of the RCSA, incorporating 40 CFR 262.34(a)(4) which requires compliance with 40 CFR 265.53(b).**
 - g. **Failed to provide an annual update of hazardous waste training 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(c).**
4. By virtue of the above, Respondent has violated RCSA sections 22a-449(c)-100 through 119, incorporating 40 CFR Parts 260 through 279.
 5. On July 31, 2014, the DEEP issued Notice of Violation No. WSWDH14050 ("NOV") to Respondent requiring correction of the violations listed in paragraph A.3. of this consent order.
 6. Based on correspondence and supporting documentation Respondent submitted to DEEP in response to the NOV on August 18, August 29 and September 24, 2014, and February 10, 2015, Respondent has corrected the violations cited in paragraph A.3. of this consent order.
- 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. 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 **fifteen (15) 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 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 **sixty (60) days** after the date of issuance of this consent order, Respondent shall submit for the review and written approval of the Commissioner 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, inspection schedules and logs, inspection procedures, emergency planning procedures, container management, record keeping, personnel training. Within **five (5) days** after the Commissioner approves such plan, Respondent shall carry out the plan and maintain it in full effect thereafter.
 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.

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3. Status of Notice of Violation No. WSWDH14050. This consent order supersedes Notice of Violation No. WSWDH14050.
4. Civil penalty. Respondent shall pay a penalty of **twenty-six thousand, four hundred ninety-eight dollars (\$26,498.00)** 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. Payment shall be made in four (4) equal installments of **six thousand, six hundred twenty-four dollars and fifty cents (\$6,624.50)** in accordance with the provisions of paragraph B.6., in according with the following schedule:
 - a. The first installment of **six thousand, six hundred twenty-four dollars and fifty cents (\$6,624.50)** shall be due and payable on or before **fourteen (14) days** after the date of issuance of this consent order.
 - b. The second installment of **six thousand, six hundred twenty-four dollars and fifty cents (\$6,624.50)** shall be due and payable on or before **sixty (60) days** after the date of issuance of this consent order.
 - c. The third installment of **six thousand, six hundred twenty-four dollars and fifty cents (\$6,624.50)** shall be due and payable on or before **one hundred twenty (120) days** after the date of issuance of this consent order.
 - d. The fourth installment of **six thousand, six hundred twenty-four dollars and fifty cents (\$6,624.50)** shall be due and payable on or before **one hundred eighty (180) days** after the date of issuance of this consent order.
5. Supplemental Environmental Projects. In lieu of making the third and fourth civil penalty payment installments prescribed in paragraph B.4 above, Respondent may comply with the requirements of either paragraphs B.5.a. or B.5.b. below regarding supplemental environmental projects ("SEP").
 - a. Payment to the Statewide SEP Account.
 - (1) Respondent shall pay **thirteen thousand, two hundred forty-nine dollars (\$13,249.00)** to the Statewide SEP Account. Payment shall be made in two (2) equal installments.
 - i. The first installment of the SEP payment in the amount of **six thousand, six hundred twenty-four dollars and fifty cents (\$6,624.50)** shall be due and payable on or before **one hundred twenty (120) days** after the date of issuance of this consent order.
 - ii. The second installment of the SEP payment in the amount of **six thousand, six hundred twenty-four dollars and fifty cents (\$6,624.50)** shall be due and payable on or before **one hundred eighty (180) days** after the date of issuance of this consent order.
 - (2) The payments 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 "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.

b. Performance of SEP(s).

(1) On or before **forty-five (45)** days after 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"), according to the Department's February 15, 1996 "Policy on Supplemental Environmental Projects". The proposal shall include:

- i. a detailed description of each SEP,
- ii. itemized costs to be incurred by Respondent in carrying out each SEP,
- iii. documentation to support such cost estimates,
- iv. an explanation as to why each SEP is being proposed,
- v. a proposed schedule (of not more than **180 days**) for implementation and completion of each SEP, and
- vi. a description of the benefit of each SEP to the general public or the environment.

Respondent shall be credited up to **thirteen thousand, two hundred forty-nine dollars (\$13,249.00)** to partially fund any SEP(s).

(2) 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 an SEP shall be in the sole discretion of the Commissioner.

(3) If the dollar amount of the penalty offset attributable to the approved SEP(s) is less than **thirteen thousand, two hundred forty-nine dollars (\$13,249.00)**, Respondent shall pay the difference in accordance with a revised schedule established by the Commissioner.

(4) 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. If Respondent fails to fully perform any SEP in accordance with the proposal approved pursuant to paragraph B.5.b.(2).i., 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, as determined by the Commissioner, of all such SEP(s), plus either two thousand five hundred dollars (\$2,500) or 10% of such total estimated cost, whichever is greater. Respondent shall make such payment in accordance with the remittance procedures for unexpended SEP funds in subparagraph B.5.b.(10). of this consent order.

(5) The net present after-tax value of the SEP(s) shall be equivalent to the sum(s) 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.

(6) 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.

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- (7) 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.
 - (8) On or before **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 each SEP. Such final report shall include, at a minimum:
 - i. a narrative history of the project,
 - ii. detailed explanation of its design and implementation,
 - iii. summary of any data collected,
 - iv. complete final accounting of actual project costs including receipts for out-of-pocket costs, and
 - v. a discussion of environmental benefits resulting from each SEP.
 - (9) 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.b.(2).i., 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.
 - (10) 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, "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. Any payment shall be made in accordance with paragraph B.5.a.2. of this consent order.
6. 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 "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.
 7. 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.
 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

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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.

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 is punishable as a criminal offense under §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.
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.
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

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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:

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

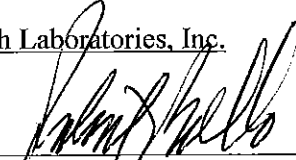
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Respondent consents to the issuance of this consent order without further notice. "The undersigned certifies that he/she is fully authorized to enter into this consent order and to legally bind the Respondent to the terms and conditions of the consent order."

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BY:



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

Robert J. Bollo
Name (typed)

Vice President and Chief Financial Officer
Title

APR. 14, 2015
Date

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


Robert J. Klee
Commissioner

5/5/14
Date

Consent Order No. COWSWDH15002