

**STATE OF CONNECTICUT
V.
1215 NORWICH RD. LLC**

CONSENT ORDER # WSWDH15003

Date Issued: June 30, 2015

- A. With the agreement of 1215 Norwich Rd. LLC (“Respondent”), the Commissioner of Energy and Environmental Protection (“the Commissioner”) finds:
1. Respondent is a limited liability corporation which owns the property located at Commercial Drive in Plainfield, Connecticut (“the site”).
 2. Respondent is or has been a generator of hazardous waste at the site.
 3. Based on the findings of an inspection of the site performed by the Department of Energy and Environmental Protection (“the Department”), Bureau of Materials Management and Compliance Assurance, Waste Engineering and Enforcement Division on October 23rd and 24th, 2014:
 - a. Respondent failed to determine whether each waste generated at the site is a hazardous waste as required by Section 22a-449(c)-102(a)(2)(A) of the Regulations of Connecticut State Agencies (“RCSA”) which incorporates by reference Title 40 of the Code of Federal Regulations (“CFR”) 262.11 with specified changes. Specifically, the Department found no hazardous waste determinations were made for the contents of approximately 40, 1- and 5-gallon containers of old industrial coatings and solvents and 11, 55-gallon drums.
 - b. Respondent failed to obtain a permit prior to storing hazardous waste at the site for greater than 90 days as required by Section 22a-449(c)-102(a)(2)(L) of the RCSA, which incorporates by reference 40 CFR 262.34(b). Specifically, the Department found approximately 40, 1- and 5-gallon containers of old industrial coatings and solvents and 4, 55-gallon drums with hazardous contents stored inside a trailer on the site for at least 14 years.
 - c. Respondent failed to label containers accumulating hazardous waste with the words “Hazardous Waste” and other words that identify their contents as required by Section 22a-449(c)-102(a)(2)(J) of the RCSA, which incorporates by reference 40 CFR 262.34(a)(3) with specified changes. Specifically, the Department found approximately 40, 1- and 5-gallon containers of old industrial coatings and solvents not labeled with the words “Hazardous Waste” and 4, 55-gallon drums with hazardous contents not labeled with the words “Hazardous Waste” or a description of contents.
 - d. Respondent failed to label containers accumulating hazardous waste with the date upon which accumulation began as required by Section 22a-449(c)-102(a)(1) of the RCSA, which incorporates by reference 40 CFR 262.34(a)(2). Specifically, the Department found approximately 40, 1- and 5-gallon containers of old industrial coatings and solvents and 4, 55-gallon drums with hazardous contents not labeled with the wastes’ accumulation start date.

- e. Respondent failed to provide each container storage area with a containment system as required by Section 22a-449(c)-102(a)(2)(E) of the RCSA which incorporates by reference 40 CFR 262.34(a)(1)(i) and 264.175. Specifically, the Department found approximately 40, 1- and 5-gallon containers of old industrial coatings and solvents and 4, 55-gallon drums with hazardous contents stored inside a trailer with no secondary containment.
 - f. Respondent failed to develop, follow, and maintain a written inspection schedule and log as required by Section 22a-449(c)-102(b)(2) of the RCSA, which incorporates by reference 40 CFR 265.15(b)(1) with specified changes. Specifically, the Department found no written inspection schedule or log on-site for the approximately 40, 1- and 5-gallon containers of old industrial coatings and solvents and 4, 55-gallon drums with hazardous contents stored inside the trailer.
 - g. Respondent failed to label or clearly mark containers used to store used oil with the words "Used Oil" as required by Section 22a-449(c)-119(a)(1) of the RCSA, incorporating by reference 40 CFR 279.22(c)(1). Specifically, the Department found 8 of the 11, 55-gallon drums identified with contents contained used oil mixtures and were not labeled "Used Oil".
 - h. Respondent failed to determine or have records documenting the determination of the total halogen content of each used oil generated at the facility as required by Section 22a-449(c)-119(b)(1)(A) of the RCSA. Specifically, the Department found no evidence or documentation indicating that a total halogen determination was made for the used oil mixtures contained in 8 of the 11, 55-gallon drums identified with contents on site.
4. By virtue of the above, Respondent has violated Sections 22a-449(c)-102 and 22a-449(c)-119 of the RCSA.
 5. On December 18, 2014, the Department issued Notice of Violation No. WSWDH 14072 to Respondent to correct the violations listed in paragraph A.3 of this consent order.
 6. In correspondence received January 26th, 28th, and 30th, 2015, Respondent represented that the violations corresponding to those listed in paragraph A.3 of this consent order have been resolved.
- 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. Respondent shall maintain all hazardous waste handling procedures and facilities in compliance with all the applicable provisions of the RCSA Section 22a-449(c)-100, et. seq., in accordance with the following schedule:
 - 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. Respondent shall retain such consultants or retain other qualified environmental consultants acceptable to the Commissioner until this consent order is fully complied with, and within **ten (10) days** after retaining any consultants other than those originally identified under this paragraph, Respondent shall notify the Commissioner in writing of the identity of such other consultant. 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 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 complete generator closure of the trailer in which hazardous waste was stored on-site and of all area(s) where the trailer had been placed at the site and submit, for the Commissioner's review and approval, a report detailing these actions. Respondent shall complete generator closure in accordance with the guidance set forth in the attached "Draft RCRA Closure Guidance for Generators Who Store Less Than 90 Days Container Storage Areas and Tank Systems".
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. WSWDH 14072: This consent order supersedes Notice of Violation No. WSWDH 14072.
4. Civil penalty. Respondent shall pay a penalty of fourteen thousand seven hundred dollars (\$14,700.00) 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 as follows: Respondent shall remit a payment of one thousand two hundred twenty-five dollars (\$1,225.00) within fourteen (14) days of the issuance of this consent order and a payment of one thousand two hundred twenty-five dollars (\$1,225.00) on or before every thirty (30) days thereafter, for a total of twelve equal payments totaling fourteen thousand seven hundred dollars (\$14,700.00). These payments must be made in accordance with the protocol described in paragraph B.5 below.
5. 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 the "Connecticut Department of Energy and Environmental Protection." The check shall state on its face, "Bureau of Materials Management and Compliance Assurance, Waste Engineering and Enforcement Division, civil penalty" and the consent order number identified on the first page of this consent order. A copy of the check as well as any transmittal letter shall be mailed or delivered to Julie Dutton, Bureau of Materials Management and Compliance Assurance, Waste Engineering and Enforcement Division at the same address.
6. Sampling and sample analyses. All sampling and 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 Connecticut Department of Public Health to conduct such sampling and 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. 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 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 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 RCSA, and by the individual(s) responsible for actually preparing such document, and each such individual shall certify in writing as follows:

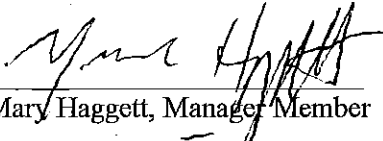
"I have personally examined and am familiar with the information submitted in this document and all attachments thereto, and I certify, based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, that the submitted information is true, accurate 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 §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 may be punishable as a criminal offense under Section 53a-157b of the CGS 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 or prevent or abate pollution.
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:

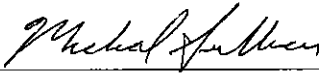
Michelle L. Gore, Sanitary Engineer 3
Department of Energy and Environmental Protection
Bureau of Materials Management and Compliance Assurance
Waste Engineering and Enforcement Division
79 Elm Street, 4th Floor
Hartford, Connecticut 06106-5127

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.

1215 NORWICH RD. LLC

BY: 
Mary Haggett, Manager Member
6-12-15
Date

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


Michael Sullivan
Deputy Commissioner

6/29/15
Date

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CERTIFICATION OF MAILING

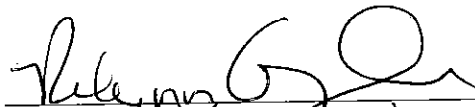
I hereby certify that on 7/2, 2015, 2015, at 10:00 (Circle One) A.M./P.M., a copy of the above referenced consent order was sent to the following by placing it in interdepartmental/U.S. mail:

1215 Norwich Rd. LLC
241 Church Street
Putnam, CT 06260
Attn: Mary Haggett, Manager Member

Certified Mail No. 9414810 2008 29660804408
NOTE: THIS COPY OF THE ORDER MUST BE SENT BY CERTIFIED MAIL

On _____, 2015, at _____: _____ (Circle One) A.M./P.M., a copy (that was not a certified copy) of the above referenced consent order was sent to the following by placing it in interdepartmental/U.S. mail:

Maher and Cotnoir Attorneys at Law
First Niagara Building
163 Providence Street
P.O. Box 187
Putnam, CT 06260
Attn: Ernest J. Cotnoir

Signature: 
Name: Rosalyn Grzybowski
Title: Admin asst
Date: 7-2-15