

## STATE OF CONNECTICUT

### V.

#### NEW ENGLAND DISCOVERY PARTNERS, LLC

**CONSENT ORDER No. COWSWDH**19011

**Date Issued:** 12/11/2019

- A. With the agreement of New England Discovery Partners, LLC (the “Respondent”), the Commissioner of Energy and Environmental Protection (the “Commissioner”) finds:
1. Respondent is a Connecticut Limited Liability Company registered to do business with the Connecticut’s Secretary of State with the business and mailing address of 23 Business Park Drive in Branford, 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 May 22, 2019, Respondent:
    - a. Failed to notify EPA of generator status as required by Section 22(a)-449(c)-102(a)(1) of the Regulations of Connecticut State Agencies (“RCSA”), which incorporates by reference title 40 of the Code of Federal Regulations (“40 CFR”) 262.12(a). Specifically, the Respondent had been operating as a large quantity generator under the previous occupant’s EPA ID Number, and had not notified EPA for its own hazardous waste activities.
    - b. Failed to have a contingency plan as required by Section 22a-449(c)-102(a)(2)(K) of the RCSA, which incorporates by reference 40 CFR 262.34(a)(4) and 265.50 through 265.56.
    - c. Failed to have facility personnel take part in an annual review of the required initial training as required by Section 22a-449(c)-102(a)(2)(K) of the RCSA, which incorporates by reference 40 CFR 262.34(a)(4) and 265.16(c).
    - d. Failed to develop and follow a written inspection schedule as required by 22a-449(c)-102(b)(2) of the RCSA, which incorporates by reference 40 CFR 265.15(b)(1). Specifically, no written inspection schedule was available for review at the time of the inspection.
    - e. Failed to record inspections in an inspection log or summary and keep these records as required by Section 22a-449(c)-102(b)(2) of the RCSA, which incorporates by reference 40 CFR 265.15(d). Specifically, no inspection logs were available for review at the time of the inspection. On May 29, 2019, the Department received a blank weekly inspection log from the

Respondent.

- f. Failed to maintain inspection logs for the inspection of safety and emergency equipment as required by Section 22a-449(c)-102(b)(2) of the RCSA, which incorporates by reference 40 CFR 265.15(d). Specifically, the inspection of the safety and emergency equipment was not being documented in an inspection log, but only on "hang tags."
  - g. Failed to prepare and submit a biennial report as required by Section 22a-449(c)-102(a)(2)(AA) of the RCSA, which incorporates 40 CFR 262.41(a) with specified changes.
  - h. Failed to keep all containers holding hazardous waste closed except when adding or removing waste 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 265.173(a). Specifically, one drum was discovered open.
  - i. Failed to install all covers and closure devices for the container, as applicable to the container, and secure and maintain each closure device in the closed position as required by 40 CFR 265.1087(c)(3). Specifically, one drum was discovered open.
  - j. Failed to accumulate hazardous waste in containers that are clearly marked with the date upon which each period of accumulation begins as required by Section 22a-449(c)-102(a)(1) if the RCSA, which incorporates by reference 40 CFR 262.34(a)(2). Specifically, one drum was discovered not labeled with the accumulation start date.
4. 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 and Chapter 446d of the Connecticut General Statutes (CGS).
  5. On July 17, 2019, the Department issued Notice of Violation No. NOVWSWDH19035 to Respondent to correct the violations listed in paragraph A.3 of this consent order.
  6. In correspondence received August 16, 2019 and September 24, 2019, 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, and 22a-449 of the CGS, orders Respondent as follows:
1. Respondent shall maintain its compliance with all the applicable provisions of the RCSA Section 22a-449(c)-100, et. seq., including but not limited to those regulations applicable to generators of hazardous waste identified in paragraph A.3 above and in accordance with the following schedule:
    - a. On or before **thirty (30) days** after the date of issuance of this consent order, Respondent shall submit for the Commissioner's review and written approval a plan detailing additional actions and/or operational changes to ensure future compliance with the requirements specified in paragraph A.3 of this consent order. 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.



3. Civil penalty. On or before **fourteen (14) days** after issuance of this consent order, Respondent shall pay a penalty of **three thousand two hundred twenty-five dollars (\$3,225.00)** 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.
4. 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.
5. 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.
6. 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.
7. Definitions. As used in this consent order, "Commissioner" means the Commissioner or a representative of the Commissioner.
8. 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.

9. 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."*

10. 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.
11. 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.
12. 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.
13. 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.
14. Respondent's obligations under law. Nothing in this consent order shall relieve Respondent of other obligations under applicable federal, state and local law.
15. 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.

16. 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.
17. 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.
18. 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.
19. 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.
20. 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:

Katie Faust, Environmental Analyst  
Department of Energy and Environmental Protection  
Bureau of Materials Management and Compliance Assurance  
Waste Engineering and Enforcement Division  
79 Elm Street, 4<sup>th</sup> Floor  
Hartford, Connecticut 06106-5127

This space intentionally left blank.

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.

**NEW ENGLAND DISCOVERY PARTNERS, LLC**

BY:   
Michael Van Zandt, President and CEO

11/25/2019  
Date

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

  
Betsey Wingfield  
Deputy Commissioner

12/11/19  
Date

Consent Order # WSWDH19011