



April 25, 2020

Mr. William F. Conners  
SVP Facilities Regulatory Compliance  
Clean Harbors  
42 Longwater Drive  
P.O. Box 9149  
Norwell, MA 02061-9149

**Re: Final Consent Order**

Dear Mr. Conners:

Enclosed is a certified copy of the Consent Order negotiated between Clean Harbors and the Department of Energy and Environmental Protection to address violations of the hazardous waste management regulations.

If you have any comments or questions on the substantive requirements and/or scheduling deadlines presented in the consent order, contact Paul Franson of my staff at (860) 424-3565 or via email at [Paul.Franson@ct.gov](mailto:Paul.Franson@ct.gov).

Sincerely,

Robert C. Isner, Director  
Waste Engineering and Enforcement Division  
Bureau of Materials Management and Compliance Assurance

RCI:pf

Encl: Final Consent Order

Sent via electronic certified mail

c: Julie Dutton, DEEP/WEED





## STATE OF CONNECTICUT

### V.

#### CLEAN HARBORS OF CONNECTICUT, INC.

CONSENT ORDER NO. COWSWDH20002

DATE ISSUED: April 25, 2020

- A. With the agreement of Clean Harbors of Connecticut, Inc. ("Respondent"), the Commissioner of Energy and Environmental Protection ("the Commissioner") finds:
1. Respondent is a Delaware corporation registered to do business in Connecticut with the Connecticut Secretary of the State.
  2. Respondent's registered business address listed with the Connecticut Secretary of the State is 42 Longwater Drive, Norwell, Massachusetts 02061.
  3. Respondent is or has engaged in the business of commercially storing and/or treating hazardous and non-hazardous waste at 51 Broderick Road, Bristol, Connecticut and more fully described as Assessor's Map 04, Block 3 and Lot H on the land records of the Town of Bristol, Connecticut. The property will hereinafter be referred to as the "Site".
  4. On September 13, 2013 the Department of Energy and Environmental Protection ("DEEP") issued Respondent Permit No. DEEP/HWM-017-004 (the "Permit") to operate a commercial hazardous waste facility at the Site in accordance with the Resource Conservation and Recovery Act ("RCRA") and Section 22a-454 of the Connecticut General Statutes.
  5. Staff from the Bureau of Materials Management and Compliance Assurance, Waste Engineering and Enforcement Division ("WEED") conducted a records review in response to a hazardous waste release occurring at the Site on July 20, 2019. Based upon the records provided to DEEP by Respondent on August 1, 15, 16, 20 and 30 2019, WEED found that the Respondent failed to:
    - a. **Operate the facility in a manner that minimizes the possibility of any sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, surface water which could threaten human health or the environment, as required by Section I(A) of the Permit.** DEEP found that the facility was operated in a manner that allowed hazardous waste to be stored in areas not authorized by the Permit, including an area without secondary containment. More specifically, the Department found that the facility: 1) stored a bulk container of corrosive metal bearing hazardous waste liquid (Cusco #4086) in an unpermitted area without secondary containment (i.e., in front of the Container Storage Building). On July 20, 2019 the container had a major release of hazardous waste; and 2) stored hazardous wastes in additional areas not authorized by the Permit. More specifically, The Department found that a bulk container of corrosive metal bearing hazardous waste (Cusco #4086 - leaking container described in No. 1

above) had been stored in Truck Parking Area 1 from July 20, 2019 until July 24, 2019. The Permit does not authorize bulk containers of hazardous waste to be stored in Truck Parking Area 1 other than in roll-offs. In addition, the Department found that a bulk container of corrosive metal bearing hazardous waste (Cusco #4012) had been stored on what is described by Clean Harbors as the "Truck Staging Pad" from July 20, 2019 until July 24, 2019. The Permit does not authorize hazardous waste to be stored in the area described as the Truck Staging Pad.

- b. **Ensure that waste is managed in an appropriate container prior to placement into a Permitted Waste Management Area at the facility, as required by Section III(A)(31)(b) of the Permit.** DEEP found that a bulk container of hazardous waste (Cusco #4086) was placed in the Bulk Loading and Unloading Area without being inspected to ensure the container was appropriate for the waste it contained. More specifically, DEEP found that corrosive (acidic) hazardous waste had been managed in the bulk container previously described (Cusco #4086) and that the container had been operated with an aluminum reducer bushing while the corrosive waste was being stored at the facility. The aluminum bushing failed due to corrosion, causing a major spill.
- c. **Submit a report to DEEP within fifteen (15) days after an incident that requires implementation of the Contingency Plan, as required by Section IV(I)(6)(j) of the Permit.** DEEP found that the information required pursuant to Section IV(I)(6)(j) of the Permit, specific to a major hazardous waste spill that occurred on July 20, 2019, had not been provided to the Department to date until August 20, 2019. **Note:** This report was submitted by means of an e-mail sent to the DEEP on August 20, 2019 in response to a broad information request. The report referenced above, and all other reports required pursuant to the Permit, shall be submitted to DEEP as standalone documents within the prescribed timeframes. In addition, all reports shall be clearly identified with respect to the purpose of the submittal (i.e., specific permit condition). This is especially important due to the number of reports required in the Permit that are similar in nature.
- d. **Submit a report to DEEP's Waste Engineering and Enforcement Division (WEED) within fifteen (15) days after an incident that requires reporting pursuant to Section 22a-450 of the Connecticut General Statutes, as required by Section III.(A)(16) of the Permit.** DEEP found that the information required pursuant to Section III(A)(16) of the Permit, specific to a major hazardous waste spill that occurred at the site on July 20, 2019, had not been provided to the Department within the required timeframe. **Note:** Spill related reports were submitted to DEEP by means of e-mails from Clean Harbors on August 15 and 16, 2019. However, it is unclear what specific requirement(s) the reports were intended to address. The Permittee shall ensure all reports are clearly identified with the requirement they are addressing (i.e., permit condition, statutory citation, regulatory citation, etc.) so DEEP is able to compare the submittal with the elements identified by the actual requirement.
- e. **Note hazardous waste manifest discrepancies, as required by Section IV(J) of the Permit, which requires compliance with Section 264.71(a)(2)(ii) of the Code of Federal Regulations ("CFR").** DEEP found that hazardous waste shipped to the facility on Manifest Tracking Number 013539489 FLE did not match the associated Waste Material Profile information for the waste shipped. More specifically, after testing the waste upon arrival at the facility, it was discovered that the waste contained chromium at hazardous waste levels. The Waste Material Profile information and/or the manifest relevant to the waste shipment did not include EPA Waste No. D007. The Designated Facility Copy of the manifest, provided to DEEP, did not document the discrepancy in Item 18a. (Discrepancy Indication Space).

- f. **Place one-time Land Disposal Restriction (“LDR”) notification and certification information in Facility Operating Record, as required by Section IV(K)(11) of the Permit, which requires compliance with Section 268.9(d) of the CFR (July 1, 2000 rev.).** DEEP found that characteristic hazardous waste (i.e., D002, D007, D008) associated with a major spill that occurred at the facility on July, 20, 2019 was treated to meet the LDR treatment standards before being land disposed. The relevant LDR notification and certification documentation was not placed in the Facility Operating Record as required. **Note:** Connecticut regulation requires that the treater send copies of the applicable notification and certification documentation to the Department in addition to the treater placing such documentation in their files.
6. Staff from the Bureau of Materials Management and Compliance Assurance, Waste Engineering and Enforcement Division (“WEED”) conducted a follow-up records review relevant to the hazardous waste release occurring at the Site on July 20, 2019. Based upon the records provided to DEEP by Respondent on September 16, 2019, WEED found that the Respondent failed to:
  - a. **Comply with Section I(E)(1) of the Permit, which requires compliance with 40 CFR Section 268.3.** DEEP found that lead and chromium bearing hazardous waste was treated at the site’s Solidification and Stabilization Treatment Area by means of impermissible dilution. Details of such treatment were provided to DEEP by means of an e-mail sent by Respondent on September 16, 2019. More specifically, DEEP found that in addition to stabilization agents (i.e., cement), large amounts of non-hazardous waste were mixed with the hazardous waste as a substitute for adequate treatment to achieve compliance with subpart D of 40 CFR Part 268.
7. Staff from the Bureau of Materials Management and Compliance Assurance, Waste Engineering and Enforcement Division (“WEED”) conducted a follow-up records review relevant to the hazardous waste release occurring at the Site on July 20, 2019. Based upon the records review and information provided to DEEP by Respondent on November 14, 2019, WEED found that the Respondent failed to:
  - a. **Include all information to be identified in the 2017 Biennial Report, as required by Section IV(M) of the Permit, which requires compliance with Section 264.75(e) of the CFR.** DEEP found that the 2017 Biennial Report submitted in 2018 did not identify hazardous wastes that were stabilized at the Site prior to being shipped off-site for landfilling and/or subsequent treatment.
8. By virtue of the above, the Respondent has violated Section 22a-454 of the Connecticut General Statutes (“CGS”), Section 22a-449(c)-100, et. seq. of the Regulations of Connecticut State Agencies (“RCSA”) and the Permit.
9. On September 3, 2019, WEED issued Notice of Violation No. WSWDH19037 to the Respondent to correct the violations corresponding to those cited in subparagraphs A.5.a. and A.5.f. of this consent order.
10. On October 1, 2019, WEED issued Notice of Violation No. WSWDH190042 to the Respondent to correct the violations corresponding to those cited in subparagraph A.6.a. of this consent order.
11. On September 30, 2019, WEED received a Compliance Statement in response to Notice of Violation No. WSWDH19037 in which the Respondent addresses violations identified in paragraphs A.5.a. through A.5.f. above.
12. On October 31, 2019, WEED received a Compliance Statement in response to Notice of Violation No. WSWDH19042 in which the Respondent addresses violations identified in paragraph A.6.a. above.

13. By agreeing to the issuance of this consent order, Respondent makes no admission of fact or law with respect to matters addressed herein other than the facts asserted in paragraphs A.1. through A.4. of this consent order.

B. With the agreement of Respondent, the Commissioner, acting under Sections 22a-6, 22a-131, and 22a-449 of the CGS, orders Respondent as follows:

1. **Compliance Assurance.** Respondent shall bring all violations identified in paragraph A.5. through A.7. into compliance and maintain its compliance with all applicable provisions of the Sections 22a-449(c)-100, et. seq. of the RCSA and the Permit, including but not limited to those regulations and permit conditions identified in paragraph A.5. through A.7. above. In particular:
  - a. On or before **sixty (60) days** after 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 it has undertaken or will undertake to ensure compliance with: 1) Connecticut's hazardous waste management regulations Section 22a-449(c)-100, et. seq. of the RCSA; and 2) the Permit including, but not limited to, those set forth in paragraph A.5. through A.7. 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 for violations.** On or before **fourteen (14) days** after the date of issuance of this consent order, Respondent shall pay a civil penalty of **one hundred twenty-one thousand six hundred eighty dollars (\$121,680)** as the total civil penalty to be sought by the Commissioner for those, and only those, violations described in paragraphs A.5. through A.7. of this consent order. Payment shall be made in accordance with the provisions of paragraph B.4.
4. **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.
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 §22a-430-3(b)(2) of the Regulations of Connecticut State Agencies, 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 nonappealable 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 §53a-157b of the Connecticut General Statutes 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 pursuant to this consent order, 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 not otherwise addressed by this consent order. 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:

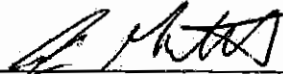
Mr. Paul Franson, Environmental Analyst 3  
Bureau of Materials Management and Compliance Assurance  
Waste Engineering and Enforcement Division  
Department of Energy and Environmental Protection  
79 Elm Street  
Hartford, Connecticut 06106-5127



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.

**Clean Harbors of Connecticut, Inc.**

BY:



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

Eric Gerstenberg

Name (typed)

President, Chief Operating Officer

Title

Date

3/17/20

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



Betsy C. Wingfield  
Deputy Commissioner  
Department of Energy and Environmental Protection

April 16, 2020

Date

CONSENT ORDER NO. COWSDH20002

