



STATE OF CONNECTICUT
DEPARTMENT OF ENVIRONMENTAL PROTECTION



ATTACHMENT 1

STATE OF CONNECTICUT)	
)	<u>CONSENT ORDER NO. 7019</u>
VS.)	
)	FINAL DECISION
UNITED TECHNOLOGIES CORPORATION)	

ORDER

A. The Commissioner of Environmental Protection ("Commissioner") finds the following:

1. United Technologies Corporation ("Respondent"), through its Hamilton Standard Division, operates a business at One Hamilton Road, Windsor Locks, Connecticut ("facility").
2. The Connecticut Department of Environmental Protection conducted an Ambient Impact Analysis of emissions from the facility which demonstrated that Respondent has exceeded Connecticut and National Ambient Air Quality Standards for Annual, 24 hour and 3 hour limits for sulfur dioxide.
3. By virtue of the above, Respondent has violated Section 22a-174-24(b) of the Regulations.
4. Respondent retained TRC Environmental Consultants, Inc. to develop a plan to bring the facility into compliance with Connecticut and National Ambient Air Quality Standards for sulfur dioxide ("plan").
5. Respondent submitted the plan to the Commissioner for his review and written approval. The Commissioner approved the plan in a letter dated November 12, 1991. Respondent submitted to the Commissioner in a letter dated August 31, 1992, a schedule for implementing the plan ("schedule").

B. With the agreement of Respondent, the Commissioner, acting under Sections 22a-6, 22a-171, 22a-174, 22a-177 and 22a-178 of the Connecticut General Statutes, orders Respondent as follows:

1. a. Within 7 days after issuance of this consent order, Respondent shall fully implement the following remedial actions:
 1. For Boiler No. 518(41), Boiler No. 519(42), Boiler No. 520(43), and Boiler No. 521(44):
 - i. Respondent shall not operate more than three of said boilers simultaneously;

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- ii. Respondent shall be restricted to burning either natural gas or No. 6 fuel oil with sulfur content not exceeding 1.0 percent in Boilers No. 519(42) and 520(43); and
 - iii. Respondent shall be restricted to burning No. 6 fuel oil with sulfur content not exceeding 1.0 percent in boilers No. 518(41) and 521(44).
 2. For Boiler No. 506(48) and Boiler No. 505(49):
 - i. Respondent shall be restricted to burning either natural gas or fuel oil (No. 2 or No. 4) with sulfur content not exceeding 0.3 percent in said boilers.
 3. For Test Cell D (Source No. 687(56)) and Test Cell E (Source No. 953(57)):
 - i. Respondent shall be restricted to burning Jet-A fuel with sulfur content not exceeding 0.3 percent in said sources.
 - b. The stack heights of Boiler No. 518(41), Boiler No. 519(42), Boiler No. 520(43) and Boiler No. 521(44) shall be increased to not less than 23.4 meters in accordance with the following schedule:
 1. On or before May 31, 1993, Respondent shall commence construction of the required stack height modifications.
 2. On or before May 30, 1994, Respondent shall complete construction of the required stack height modifications.
 - c. Respondent shall comply with the following recordkeeping requirements:
 1. Respondent shall require and maintain vendor certification of fuel sulfur content for each truckload of fuel oil received. These records shall also note the boilers in which the fuel is burned;
 2. Respondent shall maintain records of the daily fuel usage for each boiler specified in Paragraph B(1)(a)(1) of this Consent Order.
2. Progress reports. Beginning the month after issuance of this Consent Order, Respondent shall submit to the Commissioner in writing quarterly Progress Reports postmarked on or by the tenth day of every third calendar month. Each Progress

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Report shall include all records required pursuant to Paragraph B(1)(c) above and describe progress made during the previous three calendar months. Progress Reports shall be submitted until Respondent has fully complied with this order.

3. Full compliance. Respondent shall not be considered in full compliance with this Consent Order until all actions required by the order have been completed as approved and to the satisfaction of the Commissioner, and all air pollution and their sources have been abated to the satisfaction of the Commissioner. The requirements of Paragraph B(1)(a) of this Consent Order shall remain in full force until modified by the Commissioner.

4. Stipulated future penalties.

a. If Respondent fails to comply with any requirement of this Consent Order or of any document approved hereunder, or fails to comply on time with any such requirement, Respondent shall pay the following civil penalties:

For each of the first ten days following the date compliance was required, two thousand dollars (\$2,000);

For each of the next ten days thereafter, five thousand dollars (\$5,000);

For each day thereafter, the sum to be paid shall increase by two thousand dollars (\$2,000) until the maximum civil penalty specified in the general statutes as amended is reached, which sum shall be paid every day thereafter until compliance is achieved.

b. Payment of the amounts specified in subparagraph (a) of this paragraph shall be submitted to the Commissioner within thirty days of the date that Respondent became aware or should reasonably have become aware of such violation. Failure to pay such penalties within thirty days shall not result in additional penalties under subparagraph (a) of this paragraph, provided that Respondent shall pay interest at a rate of one and two-thirds per cent per month or part thereof on any penalty which is not paid when due, beginning on the first day on which the penalty was past due.

c. In an action by the Commissioner to enforce the civil penalty provisions of this paragraph, the Commissioner need prove only that Respondent failed to comply with a requirement of this Consent Order or of any document approved hereunder within the time specified.

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Respondent waives the opportunity to contest the amount of any penalty specified herein or the justification for its imposition, except that Respondent may prove compliance or that compliance was impossible due only to an event beyond the reasonable control of Respondent which was unforeseeable and the results of which could not have been avoided or repaired or caused to be avoided or repaired by Respondent or an agent, employee or representative of Respondent in order to prevent the noncompliance. Increased cost shall not constitute such impossibility. Respondent shall have the burden of going forward and of persuasion with respect to any allegation of impossibility. If Respondent claims that compliance was impossible due to an event specified in this paragraph, in addition to the notice required by paragraph B(9) Respondent shall also submit a written notice to the Commissioner within ten days of becoming aware of such event stating the time of the event, the reasons that the event resulted in the noncompliance, and all activities which the Respondent and its agents, employees and representatives took to avoid or repair the results of the event and prevent the noncompliance. Failure of Respondent to submit this information to the Commissioner within ten days of becoming aware of the event shall render the provisions of this paragraph regarding allowance of claims of impossibility of no force and effect as to the particular incident involved.

5. Payment of penalties. Payment of penalties under this Consent Order shall be mailed or personally delivered to Mr. Steven Peplau, Director of Engineering and Enforcement, Bureau of Air Management, Department of Environmental Protection, 165 Capitol Avenue, Hartford, CT 06106, and shall be by certified or bank check payable to the Connecticut Department of Environmental Protection. The check shall state on its face, "Air management civil penalty, Consent Order No. 7019".
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 the 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 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.

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7. Definitions. As used in this Consent Order, "Commissioner" means the Commissioner or an agent of the Commissioner.
8. Dates. 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 personally delivered or the date three days after it is mailed by the Commissioner, 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 legal holiday shall be submitted or performed on or before the following business day.
9. 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 the Commissioner 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. In so notifying the Commissioner, Respondent shall state in writing 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.
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 a responsible corporate officer of the Respondent or a duly authorized representative of such person, as those terms are defined in section 22a-430-3(b)(2) of the Regulations of Connecticut State Agencies, and by the individual or individuals responsible for actually preparing such document, each of whom shall certify in writing as follows:
"I have personally examined and am familiar with the information submitted in this document and all attachments and certify that based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, the submitted information is true, accurate and complete to the best of my knowledge and belief, and I understand that any false statement made in this document or its attachments may be punishable as a criminal offense."

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11. 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 under Chapters 439 and 446c of the Connecticut General Statutes.
12. False statements. Any false statement in any information submitted pursuant to this Consent Order may be punishable as a criminal offense under Section 22a-175 of the Connecticut General Statutes or, in accordance with Section 22a-6, under Section 53a-157 of the Connecticut General Statutes.
13. Notice of transfer; liability of Respondent and others. Until Respondent has fully complied with this Consent Order, Respondent shall notify the Commissioner in writing no later than fifteen days after transferring all or any portion of the operations, the site or the business which are the subject of this Consent Order, or 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. Any future owner of the site may be subject to the issuance of an order from the Commissioner.
14. Commissioner's powers. Nothing in this Consent Order shall affect the Commissioner's authority to institute any proceeding to prevent or abate violations of law, prevent or abate pollution, recover costs and natural resource damages, and to impose penalties for violations of law, including but not limited to violations of any permit issued by the Commissioner. If at any time the Commissioner determines that the actions taken by Respondent pursuant to this Consent Order have not fully characterized the extent and degree of pollution or have not 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 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 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.

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- 18. No effect on rights of other persons. This Consent Order shall neither create nor affect any rights of persons who or municipalities which are not parties to this Consent Order.
- 19. Notice to Commissioner of changes. Within fifteen 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. Submission of documents. Any document required to be submitted to the Commissioner under this Consent Order shall, unless otherwise specified in writing by the Commissioner, be directed to:

Mr. Christopher D. Nelson:
 Department of Environmental Protection
 Bureau of Air Management
 165 Capitol Avenue
 Hartford, Connecticut 06106

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.

UNITED TECHNOLOGIES CORPORATION

BY: Dr. Isabel Perry
 (print): DR. ISABEL PERRY
 TITLE: Director, Environmental Health Safety
 DATE: Feb 19, 1993

Issued as final order of the Commissioner of Environmental Protection on January 7, 1993.

Timothy R. Keeney
 Timothy R.E. Keeney
 Commissioner

TK/CDN

MAILED CERTIFIED MAIL,
 RETURN RECEIPT REQUESTED

TOWN OF WINDSOR LOCKS LAND RECORDS

Certified Document No.