

New York State Department of Environmental Conservation

Office of General Counsel, Region 4

1130 North Westcott Road, Schenectady, New York 12306-2014

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Joe Martens
Commissioner

CERTIFIED - RETURN RECEIPT REQUESTED

7012 3050 0000 4246 4020

January 31, 2014

Andrew S. Hogeland
Director and Chief EHSS Counsel
SABIC
1 Plastics Avenue
Pittsfield, MA 01201

Re: Order of Consent
R4-2013-1230-140

Dear Mr. Hogeland:

Enclosed please find a copy of the fully executed Order on Consent referenced above.

This will also acknowledge receipt of \$16,000 the civil penalty pursuant to Paragraph I.

Sincerely,

Richard Ostrov
Regional Attorney
Region 4

Enclosure

cc: H. Brezner
J. Quinn

STATE OF NEW YORK: DEPARTMENT OF ENVIRONMENTAL
CONSERVATION

In the Matter of Violations of Article 27,
Title 13 of the Environmental Conservation Law
by:

ORDER ON CONSENT
File No. R4-2013-1230-140

SABIC Innovative Plastics US LLC
One Plastics Avenue
Pittsfield, Massachusetts 01201

Respondent

WHEREAS:

1. The New York State Department of Environmental Conservation (the "Department") is responsible for regulation of hazardous waste management pursuant to Article 27, Titles 13 of the Environmental Conservation Law (the "ECL").
2. Respondent, SABIC Innovative Plastics US LLC, a Delaware Corporation doing business in New York, owns and operates a plastics manufacturing facility at 1 Noryl Avenue, Selkirk, New York 12158 that is a large quantity generator of hazardous wastes (EPA Identification Number NYD066832023).
3. On October 29, 2013, Department staff inspected the facility for compliance with New York Hazardous Waste Regulations at 6 NYCRR Parts 370-374 and 376.
4. On November 8, 2013, the Department transmitted a Notice of Violation ("NOV") to Respondent setting forth the violations observed during the October 29, 2013 inspection.
5. The following violations by Respondent were observed during the October 29, 2013 inspection and the violations have been corrected.

VIOLATIONS

6. Regulations at 6 NYCRR Part 372.2(a)(8)(i)(a) allows a generator to accumulate up to 55 gallons of hazardous waste or one quart of acutely hazardous waste in containers at or near any point of generation where wastes initially accumulate, which is under the control of the operator of the process generating the waste, without a permit or interim status provided the generator keeps all containers closed except if they are in use.
7. Respondent violated 6 NYCRR Part 372.2(a)(8)(i)(a) by leaving open a 15-gallon container in the Tech 4 Epoxy lab holding lab solid waste (D-9) and a 5-gallon pail in the Resin lab holding PPO and PPE (B-9) despite no waste being added or removed.

8. Regulations at 6 NYCRR 372.2(a) (8)(i)(a) allows a generator to accumulate up to 55 gallons of hazardous waste or one quart of acutely hazardous waste in containers at or near any point of generation where wastes initially accumulate, which is under the control of the operator of the process generating the waste, without a permit or interim status provided the generator marks its containers with the words "Hazardous Waste" and with other words that identify the contents of the containers.

9. Respondent violated 6 NYCRR Part 372.2(a)(8)(i)(a) by having a 55-gallon drum holding used aerosol cans in SFS without the words "Hazardous Waste" or other words identifying the drum's contents.

10. Regulations at 6 NYCRR 373-3.4(d)(2) requires that each owner or operator must submit copies of its Contingency Plan to all local police departments, fire departments, hospitals and State and local emergency response teams that may be called upon to provide emergency services.

11. Respondent violated 6 NYCRR 373-3.4(d)(2) by not submitting copies of its contingency plan when it was last amended to the local police department, fire department, hospital and emergency response teams.

12. Regulations at 6 NYCRR 373-2.2(g) requires that the owner or operator must develop and follow a written schedule for inspecting monitoring equipment, safety and emergency equipment, security devices, and operating and structural equipment (such as dikes and sump pumps) that are important to preventing, detecting, or responding to environmental or human health hazard.

13. By letter dated May 4, 2012, the Department notified Respondent that it needed to comply with the regulations at 6 NYCRR 373-2.2(g) for the carbon unit treating the landfill leachate.

14. Respondent violated 6 NYCRR 373-2.2(g) by failing to develop an inspection schedule with a list of items to be inspected, problems to look for, and frequency of inspection for the carbon unit treating the landfill leachate.

15. Regulations at 6 NYCRR 373-2.5(e) requires that the owner or operator must prepare and submit one copy of an annual report to the Department by March 1 of each year. The report forms and instructions as designated by the Department must be used for this report. The report must cover facility activities during the previous calendar year.

16. By letter dated May 4, 2012, the Department notified Respondent that it had to comply with this requirement for the carbon unit treating the landfill leachate.

17. Respondent violated 6 NYCRR 373-2.5(e) by failing to include the carbon unit treating the landfill leachate from cell 5 in its 2011 and 2012 hazardous waste annual reports.

18. Regulations at 6 NYCRR 373-3.10(c) (1) requires that the owner or operator of new tank systems or components ensure that the foundation, structural support, seams, connections, and pressure controls (if applicable) are adequately designed and that the system has sufficient structural strength, compatibility with the wastes to be stored or treated, and corrosion protection so that it will not collapse, rupture or fail. The owner or operator must obtain a written assessment reviewed and certified by an independent, qualified professional engineer attesting that the system has structural integrity and is acceptable for the storing and treating of hazardous waste.
19. Respondent violated 6 NYCRR 373-3.10(c)(1) by not obtaining a written assessment certified by a professional engineer for the 1-gallon tank holding chloroform in the resin lab that was installed after July 14, 1986.
20. Regulations at 6 NYCRR 373-3.10(d)(2)(i) requires secondary containment systems be designed, installed and operated to prevent any migration of wastes or accumulated liquids out of the system to the soil, groundwater or surface water at any time during the use of the tank system.
21. Respondent violated 6 NYCRR 373-3.10 (d) (2) (i) by not having a secondary containment system for the 1-gallon tank in the resin lab holding chloroform.
22. Regulations at 6 NYCRR 373-3.10(d)(5)(i) requires that external liner systems which are part of a tank's secondary containment be provided with an impermeable interior coating that is compatible with the stored waste and that will prevent migration of waste into the concrete.
23. Respondent violated 6 NYCRR 373-3.10(d)(5)(i) because of extensive cracks to the coating on the secondary containment around the SFS Decanter, Waste Oil and Leachate tanks that will no longer prevent the migration of waste into the concrete under the coating.
24. Regulations at 6 NYCRR 373-3.10(e)(1) requires that hazardous wastes or treatment reagents must not be placed in a tank system if they could cause the tank, its ancillary equipment, or the secondary containment system to rupture, leak, corrode, or otherwise fail.
25. Respondent violated 6 NYCRR 373-3.10 (e) (1) by not having appropriate spill prevention and overflow controls for the 1-gallon tank in the resin lab holding chloroform.
26. Regulations at 6 NYCRR 373-3.10 (e) (4) requires that the owner or operator must mark all tanks with the words "Hazardous Waste" and with other words that identify the contents of the tanks. For underground tanks, the markings must be placed on a sign in the area above the tank.
27. Respondent violated 6 NYCRR 373-3.10(e)(4) by not labeling the 1-gallon tank in the resin lab holding chloroform with the words "Hazardous Waste" and other words identifying its contents.

28. Regulations at 6 NYCRR 373-3.10(f)(3) requires that the owner or operator must document in the operating record of the facility an inspection of those items required in 373-3.10(f)(1) and (2).

29 Respondent violated 6 NYCRR 373-3.10 (f) (3) by failing to document any of the inspections of the 1-gallon tank in the resin lab holding chloroform.

30. Regulations at 6 NYCRR 374-3.2(d)(4)(i) requires that the handler must place universal waste lamps in a container that is closed, structurally sound, adequate to prevent breakage, compatible with the contents, and must lack evidence of leakage, spillage, or damage.

31. Respondent violated 6 NYCRR 374-3.2 (d) (4) (i) by storing a number of containers holding fluorescent light bulbs that were either damaged, or not closed. One bulb was wrapped in bubble wrap but was not inside a structurally sound container.

32. Regulations at 6 NYCRR 374-3.2 (f) (3) requires that a handler must be able to demonstrate the length of time that the universal waste has been accumulated by marking the date, maintaining an inventory, or any other method.

33. Respondent violated 6 NYCRR 374-3.2 (f) (3) by failing to mark with an accumulation date the 5-gallon container holding compact bulbs.

Civil Penalties

34. ECL Section 71-2705(1) provides for a maximum civil penalty of \$37,500 for the first day of a violation and each day thereafter of a regulation promulgated under Title 13 of ECL Article 27.

Waiver of Hearing

35. The Respondent hereby consents to the issuance and entry of the foregoing Order, waives its right to a hearing herein as provided by law, and agrees to be bound by the provisions, terms and conditions contained herein.

NOW, being duly advised and having considered this matter, **IT IS HEREBY ORDERED THAT:**

I. Civil Penalty

Respondent is hereby assessed a civil penalty in the amount of SIXTEEN THOUSAND DOLLARS (\$16,000) for the violations stated herein. The civil penalty shall be paid with the return of the signed and notarized Order. Payment shall be made by bank or certified check or money order made out to the Department of Environmental Conservation.

II. Indemnification

Respondent shall indemnify and hold harmless New York State, DEC, and any of their representatives, employees or contractors for all claims, actions, damages, and costs of any name and description arising out of or resulting from the fulfillment or attempted fulfillment of the provisions of this Order by Respondent, their employees, contractors, servants, agents, successors or assigns.

III. Other Remedies

Nothing contained in this Order shall be construed as barring, diminishing, adjudicating or in any way affecting the following: (1) any legal, administrative or equitable rights or claims, actions, suits, causes of action or demands whatsoever that DEC may have against anyone other than Respondent; (2) DEC's right to enforce, administratively or otherwise, the terms, provisions and conditions of this Order against Respondent, its employees, servants, agents, successors and assigns in the event that Respondent shall be in breach of the provisions hereof, and to subject Respondent to penalties for such violations, or for other violations of the ECL; and (3) the Respondent's right to challenge any such action by the Department, whether by administrative hearing or otherwise, to the extent otherwise permitted by law or this Order on Consent.

IV. Entire Agreement; Modification

This Order constitutes the entire agreement of the parties, and no provision of the agreement shall be deemed waived or otherwise modified except as is specifically set forth in a writing executed by the Commissioner or Regional Director of DEC indicating intent to modify this Order.

V. Effective Date

The effective date of this Order is the date that by the Commissioner of Environmental Conservation, or her designee, signs it; and this Order shall expire when Respondent has fully complied with the requirements of this Order.

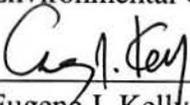
VI. Binding Effect

The provisions of this Order shall be deemed to bind Respondent, its officers, directors, agents, employees, contractors, successors and assigns, and all persons, firms and corporations acting under or for it.

Date: January 31, 2014

Joseph Martens
Commissioner
New York State Department of
Environmental Conservation

BY:



Eugene J. Kelly
Regional Director
Region 4

AS4

CONSENT BY RESPONDENT

Respondent hereby consents to the issuing and entering of this Order, waives its right to a hearing herein, and agrees to be bound by the provisions, terms and conditions contained herein.

Michael L. Walsh
Signature

VICE PRESIDENT, MANUFACTURING
Title:

DATE: JANUARY 24, 2014

COMMONWEALTH OF MASSACHUSETTS)
STATE OF NEW YORK)
) ss.:
COUNTY OF BERKSHIRE)

On the 24 day of JANUARY in the year 2014, before me, the undersigned,

personally appeared MICHAEL L. WALSH,
(Full name)

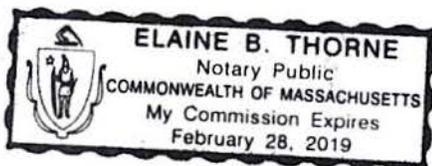
personally known to me who, being duly sworn, did depose and say that he/she/they reside at ONE PLASTICS AVENUE, PITTSFIELD, MASSACHUSETTS 01201
(Full mailing address)

and that he/she/they is(are) the VICE PRESIDENT, MANUFACTURING
(President or other officer or director or attorney in fact duly appointed)

of the SABIC INNOVATIVE PLASTICS US LLC
(Full legal name of corporation)

the corporation described in and which executed the above instrument; and that he/she/they signed his/her/their name(s) thereto by the authority of the board of directors of said corporation.

Elaine B. Thorne
Notary Public, State of ~~New York~~ Commonwealth of Massachusetts



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