

**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

7013 1090 0002 3365 0747

January 20, 2015

David Orton  
GlaxoSmithKline LLC  
3169 Route 145  
East Durham, NY 12423

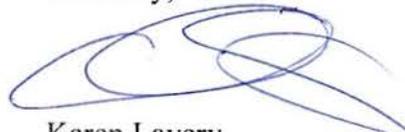
Re: Order of Consent  
R4-2014-0922-155

Dear Mr. Orton:

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

This will also acknowledge receipt of \$24,200 the civil penalty pursuant to Paragraph I.

Sincerely,



Karen Lavery  
Assistant Regional Attorney  
Region 4

Enclosure

ec: A. Elliott

mSTATE OF NEW YORK  
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

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

-by-

ORDER ON CONSENT  
File No. R4-2014-0922-155

GlaxoSmithKline LLC  
3169 Route 145  
East Durham, NY 12423

Respondent

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WHEREAS:

1. The New York State Department of Environmental Conservation (the "Department") is responsible for regulation of hazardous waste management pursuant to Article 27, Title 13 of the Environmental Conservation Law (the "ECL").
2. On June 19, 2014 and June 26, 2014, Department staff conducted inspections ("inspections") of GlaxoSmithKline LLC, Buildings 1 and 2, located at 3169 Route 145, East Durham, New York ("facility"). Building 1 has an EPA Identification Number of NYD002063378 (LQG) and Building 2 has an EPA Identification Number of NYD986953412 (SQG).

First and Second Violations

3. Regulations at 6 NYCRR §371.1(c)(7) requires that the generator who raises a claim that a certain material is not a solid or hazardous waste, or is exempt or conditionally exempt from regulation, based on the intent to reclaim, recycle or reuse, must notify the Department, in writing, before utilizing the exemption or exclusion. This notification shall give (1) the names and location of the generating and receiving facility, if different; and (3) describe the activity or activities which are believed to qualify for such exemptions or exclusions.
4. At the time of the inspections, Department staff determined that notifications were not submitted to the Department for used electronics ("ewaste") for both Building 1 and Building 2, which is in violation of regulations at 6 NYCRR §371.1(c)(7). The notifications were later completed and mailed to the Department on July 11, 2014. Based on this documentation, the Department considers both facilities to have returned to compliance on July 11, 2014.

### Third and Fourth Violations

5. Regulations at 6 NYCRR §372.2(a)(8)(ii) allow a generator to accumulate on-site of generation without being subject to the regulations applicable to hazardous waste treatment, storage and disposal facilities if the date upon which each period of accumulation begins is clearly marked and visible for inspection on each container.

6. At the time of the initial inspection of Building 1, Department staff did not observe or could not see (label obscured due to lack of aisle space) any containers of hazardous waste that were dated, which is in violation of regulations at 6 NYCRR §372.2(a)(8)(ii). The wastes were shipped on June 23, 2014 and June 24, 2014. The Department re-inspected the area on June 26, 2014, and observed that there was no waste in the area. Therefore, the facility was observed to have returned to compliance on June 26, 2014.

7. At the time of the initial inspection of Building 2, Department staff observed that several containers were not dated. Examples include two pails from the WWT plant containing test vials, three bins each containing various small lab pack chemicals, and four glass jugs, which is in violation of regulations at 6 NYCRR §372.2(a)(8)(ii). The wastes were shipped off-site on June 23, 2014 and June 24, 2014. The Department re-inspected the area on June 26, 2014, and observed that there was no waste in the area. Therefore, the facility was observed to be returned to compliance on June 26, 2014.

### Fifth Violation

8. Regulations at 6 NYCRR §373-3.9(d) require a generator to ensure that containers holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste.

9. At the time of the initial inspection of Building 1, Department staff observed that the fiber drum containing aerosols was not closed, which is in violation of regulations at 6 NYCRR §373-3.9(d). This waste was shipped off-site on June 23, 2014. The Department re-inspected the area on June 26, 2014, and observed that there was no waste in the area. Therefore, the facility was observed to be returned to compliance on June 26, 2014.

### Sixth and Seventh Violations

10. Regulations at 6 NYCRR §373-3.9(d)(3) require a generator to ensure that containers holding hazardous waste are marked with the words "*Hazardous Waste*" and with other words identifying their contents.

11. At the time of the initial inspection of Building 1, Department staff observed that only one container out of approximately ten had a hazardous waste label and most did not have other descriptive words or the labels could not be read due to lack of aisle space or condition, which is in violation of regulations at 6 NYCRR §373-3.9(d)(3). The wastes were shipped off-site on June 23, 2014 and June 24, 2014. The Department re-inspected the area on June 26, 2014, and observed that there was no waste in the area. Therefore, the facility was observed to be returned to compliance on June 26, 2014.

12. At the time of the initial inspection of Building 2, Department staff observed three open bins containing lab pack wastes that did not have the words “*Hazardous Wastes*” on them nor did the individual containers within the bins, which is in violation of regulations at 6 NYCRR §373-3.9(d)(3). The wastes were shipped off-site on June 23, 2014 and June 24, 2014. The Department re-inspected the area on June 26, 2014, and observed that there was no waste in the area. Therefore, the facility was observed to be returned to compliance on June 26, 2014.

#### Eighth Violation

13. Regulations at 6 NYCRR §372.2 (b)(2)(ii) require that for each hazardous waste listed in Item 9 of the manifest, the generator confirm with the designated facility what the ultimate disposal method will be for that waste. If the receiving TSD facility is not providing a hazardous waste management code in item 19 that reflects the ultimate disposal method for the hazardous waste, the generator must provide a State waste code in Item 13 of the manifest to designate the ultimate disposal method of the hazardous waste using one of following state codes:

L = Landfill

B = Incineration, heat recovery, burning

T = Chemical, physical, or biological treatment

R = Material recovery of more than 75 percent of the total material

14. At the time of the initial inspection of Building 1, Department staff observed three manifests out of over 100 reviewed were not coded in Box 13 and six others were incorrectly coded as “*T*” or “*R*” when they should have been “*B*” which is in violation of 6 NYCRR §372.2 (b)(2)(ii). Respondent discussed this issue with the vendor immediately after the June 26, 2014 inspection and verbally confirmed it with the inspector. Therefore, the Department considers the facility to have returned to compliance on June 26, 2014.

#### Ninth Violation

15. Regulations at 6 NYCRR §372.2(b)(2)(i) require that the generator must confirm by written communication from the designated treatment, storage or disposal facility (TSDF) and alternate treatment, storage or disposal facility that it is authorized to handle the particular hazardous waste described on the manifest.

16. At the time of the inspections of Building 2, Department staff observed that written communications from Veolia’s facilities in Stoughton, MA and Bridgewater, MA were not on file at the time of the inspections and Respondent had no proof that they had obtained it prior to the shipments, which is in violation of regulations at 6 NYCRR §372.2(b)(2)(i). Respondent emailed copies of the documentation to the Department on July 8, 2014. Based on this documentation, the Department considers the facility to have returned to compliance on July 8, 2014.

#### Tenth and Eleventh Violations

17. Regulations at 6 NYCRR §372.2(b)(2)(iii) require that the generator confirm by written communication that the designated transporter is authorized to deliver the waste to the facility on the manifest.

18. At the time of the inspections of Building 1, Department staff determined that there was no written communication that the transporters were authorized to transport the waste to a designated facility which is required to be on file prior to shipping the waste. This is a violation of regulations at 6 NYCRR §372.2(b)(iii). Documentation for Veolia ES Technical Solutions and SJ Transportation were obtained by the Respondent after the inspection. Respondent emailed copies of the documentation to the Department on July 8, 2014. Based on this documentation, the Department considers the facility to have returned to compliance on July 8, 2014.

19. At the time of the inspections of Building 2, Department staff determined that written communication for SJ Transportation and Veolia ES Technical Solutions was not on file at the time of the inspection, and Respondent had no proof that they had obtained it prior to the shipments, which is in violation of regulations at 6 NYCRR §372.2(b)(2)(iii). Respondent emailed copies of the documentation to the Department on July 8, 2014. Based on this documentation, the Department considers the facility to have returned to compliance on July 8, 2014.

#### Twelfth and Thirteenth Violations

20. Regulations at 6 NYCRR §373-3.3(f) require that the owner or operator must maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, unless aisle space is not needed for any of these purposes.

21. At the time of the initial inspection of Building 1, Department staff observed that aisle space was not maintained in the hazardous waste storage area, which is in violation of 6 NYCRR §373-3.3(f). The stockpile of waste was due to not having had a shipment of waste for two weeks and the additional non-hazardous waste being stored in the cage. The wastes were shipped off-site on June 23, 2014 and June 24, 2014. The Department re-inspected the area on June 26, 2014, and observed that there was no waste in the area. Therefore, the facility was observed to be returned to compliance on June 26, 2014.

22. At the time of the initial inspection of Building 2, Department staff observed that the storage area was crowded since no waste had been shipped for approximately two weeks. Department staff could not see around all of the containers nor could she get close to some of them to determination their condition and see or read labels, which is in violation of 6 NYCRR §373-3.3(f). The wastes were shipped off-site on June 23, 2014 and June 24, 2014. The Department re-inspected the area on June 26, 2014, and observed that there was no waste in the area. Therefore, the facility was observed to be returned to compliance on June 26, 2014.

#### Fourteenth and Fifteenth Violations

23. Regulations at 6 NYCRR §376.1(g)(1)(ii) require generators of waste that do not meet the treatment standard to send a one-time written notice with the initial shipment to each treatment or storage facility and place a copy in their files. The notice must include the subcategories made within a waste code based on waste-specific criteria (such as D003 reactive cyanide).

24. At the time of the initial inspection of Building 1, Department staff observed that the subcategory for D001 was not consistently listed on the land disposal restriction forms which is in violation of regulations at 6 NYCRR §376.1(g)(1)(ii). Respondent discussed this issue with the vendor immediately following the June 26, 2014 inspection and verbally confirmed it with staff. Therefore, the Department considers the facility to have returned to compliance on June 26, 2014.

25. At the time of the initial inspections of Building 2, Department staff observed that several LDR forms did not indicate the subcategory for D001, which is in violation of regulations at 6 NYCRR §376.1(g)(1)(ii). Examples are Manifests 00052801VES, 000527802VES, 000527803VES, and 000527804VES. Respondent discussed this issue with the vendor immediately following the June 26, 2014 inspection and verbally confirmed it with staff. Therefore, the Department considers the facility to have returned to compliance on June 26, 2014.

#### Sixteenth Violation

26. Regulations at 6 NYCRR §372.2(a)(8)(iii) allow the generator who generates more than 100 kg but less 1000 kg of non-acute hazardous waste in a calendar month to accumulate less than 6,000 kg on-site provided that all employees are thoroughly familiar with proper waste handling and emergency procedures.

27. At the time of the inspections of Building 2, Department staff determined that Respondent's employees in the wastewater treatment facility that generate hazardous waste did not receive any training specific to hazardous waste management, which is in violation of regulations at 6 NYCRR §372.2(a)(8)(iii). On July 14, 2014, Department staff received proof that the employees had received training. Based on this documentation, the Department considers the facility to have returned to compliance on July 14, 2014.

#### Seventeenth and Eighteenth Violations

28. Regulations at 6 NYCRR §376.5(a)(1)(i) allow the generator to store restricted wastes in containers on-site provided it is solely for the purpose of the accumulation of such quantities of hazardous waste as necessary to facilitate proper recovery, treatment, or disposal and provided the generator complies with all storage requirements of Part 372, Subpart 373-1, Subpart 373-2, and Subpart 373-3 of this Title.

29. At the time of the inspections of Building 1, Respondent had violations of Part 372 and Subparts 373-1, 373-2, and 373-3 of this Title (paragraphs 4, 6, 9, 11, 14, 18, and 21 above). Compliance with these requirements is included under the land disposal restriction regulations by reference, therefore Respondent was in violation of regulations at 6 NYCRR §376.5(a)(1)(i). The violations were all addressed by the Respondent. Therefore, the facility is considered to have returned to compliance.

30. At the time of the inspections of Building 2, Respondent had violations of Part 372 and Subparts 373-1, 373-2, and 373-3 of this Title (paragraphs 4, 7, 12, 16, 19, 22, and 27 above). Compliance with these requirements is included under the land disposal restriction regulations by reference, therefore Respondent was in violation of regulations at 6 NYCRR §376.5(a)(1)(i). The violations were all addressed by the Respondent. Therefore the facility is considered to have returned to compliance.

#### Nineteenth Violation

31. Regulations at 6 NYCRR §374-3.2(d)(4)(i) require 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.

32. At the time of the initial inspection of Building 1, Department staff observed that one box of four-foot lamps was open and had openings in the side, another box was only loosely taped shut with open gaps, and one UV lamp was loose and not packaged in any sort of container, which is in violation of regulations at 6 NYCRR §374-3.2(d)(4)(i). On June 23, 2014 these lamps were shipped off-site. The Department re-inspected the area on June 26, 2014, and observed that there were no waste lamps in the area. Therefore, the facility was observed to be returned to compliance on June 26, 2014.

#### Twentieth Violation

33. Regulations at 6 NYCRR §374-3.2(e)(5) require that each lamp or containers or package containing waste lamps are clearly labeled or marked with any one of the following phrases: “*Universal Waste – Lamp(s)*,” or “*Waste Lamp(s)*,” or “*Used Lamp(s)*.”

34. At the time of the initial inspection of Building 1, Department staff observed that the four-foot lamps in boxes and the loose UV lamp were not properly labeled with the appropriate words, which is in violation of regulations at 6 NYCRR §374-3.2(e)(5). On June 23, 2014 these lamps were shipped off-site. The Department re-inspected the area on June 26, 2014, and observed that there were no waste lamps in the area. Therefore, the facility was observed to be returned to compliance on June 26, 2014.

#### Twenty First Violation

35. Regulations at 6 NYCRR §374-3.2(f)(1) require that the universal waste is not accumulated over a year from the date that the waste is generated or received.

36. At the time of the initial inspection of Building 1, Department staff determined that the eight foot lamps were dated June 11, 2013 which would have been just over one year (373 days). On June 23, 2014 these lamps were shipped off-site. The Department re-inspected the area on June 26, 2014, and observed that there were no waste lamps in the area. Therefore, the facility was observed to be returned to compliance on June 26, 2014.

#### Twenty Second Violation

37. Regulations at 6 NYCRR § 374-3.2(f)(3) require 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.

38. At the time of the initial inspection of Building 1, Department staff determined that the boxes of four foot lamps and the loose UV lamp were not dated and there was no other way to verify how long these lamps had been in storage, which is in violation of regulations at 6 NYCRR § 374-3.2(f)(3). On June 23, 2014 these lamps were shipped off-site. The Department re-inspected the area on June 26, 2014, and observed that there were no waste lamps in the area. Therefore, the facility was observed to be returned to compliance on June 26, 2014.

#### Civil Penalties

39. 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

40. 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**, having considered this matter and being duly advised, it is **ORDERED** that:

### I. Civil Penalty

With respect to the aforesaid violation, a civil penalty in the amount of TWENTY FOUR THOUSAND TWO HUNDRED DOLLARS (\$24,200) is hereby assessed against the Respondent which shall be payable to the New York State Department of Environmental Conservation by money order or certified check.

### 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 an intent to modify this Order.

### V. Effective Date

The effective date of this Order shall be the date it is signed by the Regional Director.

## 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.

## VII. Reports

All reports and submissions herein required shall be made to the Region 4 Headquarters, New York State Department of Environmental Conservation, 1130 North Westcott Road Schenectady, New York, 12306, Att: Regional Hazardous Waste Engineer.

## VIII. Inspections

For the purpose of insuring compliance with this Order, duly authorized representatives of this Department shall be permitted access to the site in question during reasonable hours, in order to inspect and/or require such tests as may be deemed necessary to determine the status of the Respondent's compliance with this Order.

## IX. Summary Abatement

The terms of this Order shall not be construed to prohibit the Commissioner of his duly authorized representative from exercising any summary abatement powers, either at common law or as granted pursuant to statute or regulation.

Dated: January 16, 2015  
Rotterdam, NY

Joseph J. Martens  
Commissioner  
New York State Department of  
Environmental Conservation

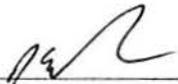
BY:

  
\_\_\_\_\_  
Keith Goertz  
Regional Director  
Region 4

CONSENT BY RESPONDENT

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

GlaxoSmithKline LLC

BY:  J. WARDLE

TITLE: Jan 12, 2015 ↗

DATE: SITE DIRECTOR (itrin) ↘

STATE OF NEW YORK    )  
  )ss.:  
COUNTY OF                                    )

On the 12<sup>th</sup> day of JANUARY in the year 2015 before me, the undersigned, a Notary Public in and for the State, personally appeared DUNCAN WARDLE, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public  
Qualified in the County of:  
My Commission Expires:

NOTARY PUBLIC -MARINA FARBER  
GREEN COUNTY, NEW YORK  
COMMISSION NO. 01FA5043106  
EXPIRES ON MAY 1ST, 2015  
Marina Farber