

**NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

Office of General Counsel, Region 4  
1130 North Westcott Road, Schenectady, NY 12306-2014  
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**CERTIFIED - RETURN RECEIPT REQUESTED**  
7015 0640 0000 2327 0506

October 5, 2015

Mr. Joe Hackett  
Saint-Gobain Abrasives  
2600 Tenth Avenue  
Watervliet, NY 12189

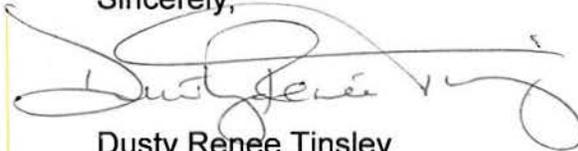
Re: Order of Consent  
R4-2015-0828-104

Dear Mr. Hackett:

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

This will also acknowledge receipt of \$7,500 the civil penalty pursuant to Paragraph I.

Sincerely,



Dusty Renee Tinsley  
Assistant Regional Attorney  
Region 4

Enclosure

cc: H. Brezner



Department of  
Environmental  
Conservation

STATE OF NEW YORK  
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

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In the Matter of Violations of Article 27,  
Title 9 of the Environmental Conservation Law  
and 6 NYCRR Parts 372 and 373,

-by-

**ORDER ON CONSENT**  
File No. R4-2015-0828-104

Saint-Gobain Abrasives, Inc.  
2600 Tenth Avenue  
Watervliet, New York 12189,

Respondent.

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WHEREAS:

**Jurisdiction**

1. The New York State Department of Environmental Conservation (“Department”) is responsible for regulation of hazardous waste management pursuant to Article 27, Title 9 of the Environmental Conservation Law (“ECL”) and the regulations promulgated thereunder contained in 6 New York Code of Rules and Regulations (“6 NYCRR”) Parts 370-374 and 376.

**Respondent**

2. Saint-Gobain Abrasives, Inc. (“Respondent”) is the owner/operator of a facility located at 2600 Tenth Avenue, Watervliet, New York 12189 (Albany County)(“Facility”) with an EPA ID Number of NYD002083954 (LQG).

**Inspection**

3. On June 5, 2015, Department staff conducted an inspection of Respondent’s Facility (“Inspection”). Violations of ECL Article 27 and 6 NYCRR Parts 372 and 373 were found.

4. Department staff sent the Respondent a Notice of Violation dated July 14, 2015 which set forth the violations of ECL Article 27 and 6 NYCRR Parts 372 and 373.

**First Violation**

5. 6 NYCRR Part 372.2(a)(8)(i)(a) states that “A generator may accumulate up to 55 gallons of 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 and without complying with subparagraph (ii) of this paragraph, provided the generator: (1) complies with

section 373-3.9(b)-(d) of this Title; and (2) marks the containers with the words "hazardous waste" and with other words that identify the contents of the containers."

6. During the Inspection, Department staff observed that Respondent was accumulating waste acid in three containers in the wet chemistry lab at the point of generation without having the containers labeled with the words "Hazardous Waste". Subsequent to the inspection, Respondent returned to compliance with this violation.

7. Respondent's accumulations of waste acid in three containers in the wet chemistry lab at the point of generation without having the containers labeled with the words "Hazardous Waste" are violations of 6 NYCRR Part 372.2(a)(8)(i)(a).

### **Second Violation**

8. 6 NYCRR Part 372.2(a)(8)(ii) states that "a generator may accumulate hazardous waste onsite of generation for a period of 90 days or less . . . . The date upon which each period of accumulation begins must be clearly marked and visible for inspection on all containers, tanks or storage areas."

9. During the Inspection, Department staff observed that a 55-gallon drum of waste methane in the central accumulation area was not marked with an accumulation start date. Subsequent to the inspection, Respondent returned to compliance with this violation.

10. Respondent's failure to mark the 55-gallon drum of waste methane in the central accumulation area with an accumulation start date is a violation of 6 NYCRR Part 372.2(a)(8)(ii).

### **Third Violation**

11. 6 NYCRR Part 373-3.9(d)(3) states that "Containers holding hazardous waste must be marked with the words "Hazardous Waste" and with other words identifying their contents."

12. During the Inspection, Department staff observed that a 55-gallon drum of waste methane in the central accumulation area was not marked with the words "Hazardous Waste" or other words identifying its contents. Respondent's personnel identified the drum content for Department staff. Subsequent to the inspection, Respondent returned to compliance with this violation.

13. Respondent's failure to mark the 55-gallon drum of waste methane in the central accumulation area with the words "Hazardous Waste" or other words identifying its contents is a violation of 6 NYCRR Part 373-3.9(d)(3).

### **Fourth and Fifth Violations**

14. 6 NYCRR Part 373-3.2(g)(1), (2), and (3) state that “Facility personnel must successfully complete a program of classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensures the facility's compliance with the requirements of this Subpart. . . . (2) Facility personnel must successfully complete the program required in paragraph (1) of this subdivision within six months after the date of their employment or an assignment to a facility, or to a new position at a facility. Employees must not work in unsupervised positions until they have completed the training requirements of paragraph (1) of this subdivision. (3) Facility personnel must take part in an annual review of the initial training required in paragraph (1) of this subdivision.”

15. During the Inspection, Department staff determined that Paul Poulin, the plant manager and emergency coordinator, had been with Respondent for more than six months but had not yet received the required training. Subsequent to the inspection, Respondent returned to compliance with this violation.

16. Respondent’s failure to have its facility personnel, Paul Poulin, complete the required training program within six months of his employment with Respondent is a violation of 6 NYCRR Part 373-3.2(g)(1) and (2).

17. During the Inspection, Department staff observed that the Joseph Hackett, an employee during the period of 2012 and 2013 and involved with hazardous waste management, did not receive the annual review of his initial training. Subsequent to the inspection, Respondent returned to compliance with this violation.

18. Respondent’s failure to conduct the annual review of the initial training for Joseph Hackett is a violation of 6 NYCRR Part 373-3.2(g)(3).

### **Sixth and Seventh Violation**

19. 6 NYCRR Part 373-3.2(g)(4) states that “The owner or operator must maintain the following documents and records at the facility: . . . (ii) a written job description for each position listed under subparagraph (i) of this paragraph. This description may be consistent in its degree of specificity with descriptions for other similar positions in the same company location or bargaining unit, but must include the requisite skill, education or other qualifications, and duties of employees assigned to each position; . . . (iv) records that document that the training or job experience required under paragraphs (1), (2) and (3) of this subdivision has been given to, and completed by facility personnel.”

20. During the Inspection, Respondent failed to have written job descriptions for the following individuals who are involved in hazardous waste management and/or emergency response: Joseph Hackett, Mike Snyder, Michael Rosenblatt, and Paul Poulin. Subsequent to the inspection, Respondent returned to compliance with this violation.

21. Respondent's failure to have job descriptions for the individuals identified in the previous paragraph who are involved in hazardous waste management and/or emergency response are violations of 6 NYCRR Part 373-3.2(g)(4).

22. During the Inspection, Respondent failed to have documentation showing that Joseph Hackett, Mike Snyder, Michael Rosenblatt, and Paul Poulin, employees involved in hazardous waste management and/or emergency response, have completed the required training. Subsequent to the inspection, Respondent returned to compliance with this violation.

23. Respondent's failure to have documentation showing that the individuals identified in the previous paragraph who are involved in hazardous waste management and/or emergency response have completed the required training are violations of 6 NYCRR Part 373-3.2(g)(4).

### **Eighth Violation**

24. 6 NYCRR Part 373-3.4(c) states that the contingency plan "must list names, addresses and phone numbers (office and home) of all persons qualified to act as emergency coordinator . . . and this list must be kept up-to-date."

25. During the Inspection, Department staff determined that the contingency plan listed Paul Poulin as a facility emergency coordinator, however, Paul Poulin's home telephone number, home address, and work telephone number were not included in the plan. Subsequent to the inspection, Respondent returned to compliance with this violation.

26. Respondent's failure to include the home telephone number, home address, and work telephone number of an emergency coordinator in the contingency plan is a violation of 6 NYCRR Part 373-3.4(c).

### **Ninth Violation**

27. 6 NYCRR Part 373-3.4(e) states that "A copy of the contingency plan and all revisions to the plan must be . . . (2) submitted to all local police departments, fire departments, hospitals, and State and local emergency response teams that may be called upon to provide emergency services."

28. During the Inspection, Respondent personnel did not know if a copy of the contingency plan had been submitted to all local police departments, fire departments, hospitals, and State and local emergency response teams that may be called upon to provide emergency services, therefore Respondent is deemed not to have made these required submittals. Subsequent to the inspection, Respondent returned to compliance with this violation.

29. Respondent's failure to submit a copy of the contingency plan and all revisions to the 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 are violations of 6 NYCRR Part 373-3.4(e).

### Tenth Violation

30. 6 NYCRR Part 373-3.4(e) states that “The contingency plan must be reviewed, and immediately amended, if necessary, whenever . . . (4) the list of emergency coordinators changes”.

31. During the Inspection, Department staff determined that Respondent had not amended its contingency plan, which listed Brad Anderson as the primary emergency coordinator, after Mr. Anderson retired at the beginning of April 2015. Subsequent to the inspection, Respondent returned to compliance with this violation.

32. Respondent’s failure to amend the contingency plan when the list of emergency coordinators changed is a violation of 6 NYCRR Part 373-3.4(e).

### Civil Penalty

33. ECL §71-2705 states that “Any person who violates any of the provisions of, or who fails to perform any duty imposed by titles 9, 11 and 13 of article 27 or any rule or regulation promulgated pursuant thereto, . . . shall be liable . . . for a civil penalty not to exceed thirty-seven thousand five hundred dollars and an additional penalty of not more than thirty-seven thousand five hundred dollars for each day during which such violation continues”.

34. **Waiver of Hearing.** Respondent has affirmatively waived its right to a hearing as provided by law and has consented to the issuing of this Order and has agreed to be bound by the provisions, terms and conditions of this Order.

NOW THEREFORE, having considered this matter and having been duly advised, IT IS ORDERED THAT:

I. **Civil Penalty.** In respect to the Order’s violations, a civil penalty for SEVEN THOUSAND FIVE HUNDRED DOLLARS (\$7,500) is assessed against the Respondent for the above violations. SEVEN THOUSAND FIVE HUNDRED DOLLARS (\$7,500) shall be paid to the Department by company or bank check made payable to the Department of Environmental Conservation at the time this Order is signed, notarized, and returned to the Department. Payment of the civil penalty shall not in any way alter Respondent’s obligation to complete performance under the terms of the Order.

II. **Settlement.** This Order settles all violations identified herein as of the effective date of the Order.

III. **Binding Effect.** This Order is binding upon the Respondent, its agents, employees, successors, assigns and to all persons and firms, and corporations acting subordinate thereto.

IV. **Modification.** The provisions of this Order constitute the complete and entire Order issued to the Respondent concerning resolution of the violations identified herein. No term, condition, understanding, or agreement purporting to modify or vary any term hereof shall be binding unless made in writing and subscribed by the party to be bound

pursuant to the provisions of the Order. No informal oral or written advise, guidance, suggestion, or comment by the Department regarding any report, proposal, plan, specification, schedule, comment, or statement made or submitted by Respondent shall be construed as relieving Respondent of its obligations required by this Order.

V. **Effective Date.** The effective date of this Order shall be the date upon which it is signed on behalf of the Department.

VI. **Scope.** Except as specifically provided in this Order, nothing contained in this Order shall be construed as barring, diminishing, adjudicating or in any way affecting:

A. Any legal or equitable rights or claims, actions, proceedings, suits, causes of action or demands whatsoever that the State or Department may have against Respondent for any violations not cited in this Order on Consent.

B. Any legal or equitable rights or claims, actions, proceedings, suits, causes of action or demands whatsoever that the State or Department may have against anyone other than Respondent, its officers, directors, agents, servants, employees, successors and assigns;

C. The Department's right to enforce this Order against Respondent, its officers, directors, servants, and employees in the event that Respondent shall fail to fulfill any of the terms or provisions hereof;

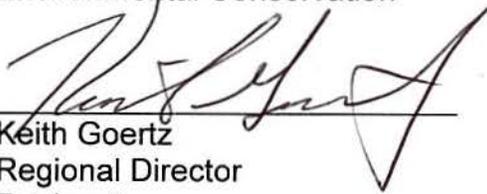
D. Whatever right the Department has to bring any action or proceeding against Respondent and/or any of Respondent's directors, officers, employees, servants, agents, successors, and assigns with respect to claims for natural resource damages; and

E. Respondent's right to assert all available defenses to any claims, actions, proceedings, suits, causes of actions or demands made or commenced by the State or the Department provided, however, that Respondent waives all legal or equitable rights claims, actions, proceedings, appeals, suits, causes of action, defenses or demands whatsoever that it may have to a judicial review of the validity and binding effect of this Order and whether or not this Order has been entered into voluntarily by Respondent.

Dated: October 5<sup>th</sup>, 2015  
Rotterdam, New York

Marc Gerstman  
Acting Commissioner  
New York State Department of  
Environmental Conservation

By:

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

CONSENT BY RESPONDENT

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

BY: Paul R. Poolin

TITLE: Plant Manager

DATE: October 1, 2015

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

On the 1st day of October in the year 2015, before me, the undersigned, personally appeared Paul R Poolin (full name) personally known to me who, being duly sworn, did depose and say that he/she/they reside at 2600 10th Ave, Watervliet NY 12189 (full mailing address) and that he/she/they is (are) the Plant Manager (president or other officer or director or attorney in fact duly appointed) of the Watervliet, NY Saint-Gobain Abrasives Plant (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.

Victoria L. Jaycox  
Notary Public, State of New York

VICTORIA L. JAYCOX  
Notary Public, State of New York  
Qualified in ~~Albany~~ Greene County  
No. 01JA6022198  
Commission Expires March 29, 2019