

**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**  
7013 1090 0002 3365 4851

August 25, 2015

Ms. Lisa-Anne Donohue  
State University of New York  
University at Albany Office of Environmental Health & Safety  
1400 Washington Ave  
Chemistry B-73  
Albany, NY 12222

Re: Order of Consent  
R4-2015-0602-63

Dear Ms. Donohue:

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

This will also acknowledge receipt of \$10,175 the civil penalty pursuant to Paragraph I.

Sincerely,



Karen S. Lavery  
Assistant Regional Attorney  
Region 4

Enclosure

ec: A. Elliott



Department of  
Environmental  
Conservation

TATE 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. R4-2015-0602-63

State University of New York  
University at Albany  
1400 Washington Ave  
Chemistry B-73  
Albany, NY 12222

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 March 26, 2015, Department staff conducted an inspection ("inspection") of State University of New York, University at Albany, located at 1400 Washington Ave, Albany, New York ("facility"). The facility has EPA Identification Number NYD073129793.

First Violation

3. Regulations at 6 NYCRR §372.2(a)(8)(i)(a) allow 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"*

4. At the time of the inspection, Department staff observed a total of six open satellite accumulation containers. Five of the containers were located in laboratory rooms 231/232, 131B, 145, 311/312 and 324. This is a repeat violation for room 311/312. The sixth container was a partially full box of broken lamps located in room LC/SB-24.
5. Respondent violated regulations at 6 NYCRR §372.2(a)(8)(i)(a) by failing to properly close containing hazardous waste.

### Second Violation

6. Regulations at 6 NYCRR §372.2(a)(8)(i)(a)(2) 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 his containers with the words “Hazardous Waste” and with other words that identify the contents of the containers.”*

7. At the time of the inspection, Department staff observed that a total of three satellite accumulation containers were not labeled with the words “Hazardous Waste” The containers were located in laboratory rooms 148, 342, and 311/312. These are repeat violations for rooms 342 and 311/312 noted during the last inspection.

8. Respondent violated regulations at 6 NYCRR §372.2(a)(8)(i)(a)(2) by failing to properly mark the containers of hazardous waste.

### Third Violation

9. Regulations at 6 NYCRR §372.2(a)(8)(ii) provide that *“Except as provided in subparagraphs (iii), (iv), and (v) of this paragraph, a generator may accumulate hazardous waste on-site of generation for a period of 90 days or less under the provisions of subparagraphs 373-1.1(d)(1)(iii), (iv), (xix) and (xx) of this Title. The date upon which each period of accumulation begins must be clearly marked and visible for inspection on all containers, tanks, or storage areas.”*

10. At the time of the inspection, Department staff observed that some hazardous wastes under a hood in laboratory room 230 had been stored there since August 25, 2014 (213 days).

11. Respondent violated regulations at 6 NYCRR §372.2(a)(8)(ii) for storing hazardous waste on-site for over 90 days.

### Fourth Violation

12. Regulations at 6 NYCRR § 376.5(a)(1)(i) provide that *“Except as provided in this section, the storage of hazardous wastes restricted from land disposal under subdivision 376.3 or RCRA section 3004 is prohibited, unless the following conditions are met:*

*A generator stores such waste in tanks, containers, or containment buildings on-site solely for the purpose of the accumulation of such quantities of hazardous waste as necessary to facilitate proper recovery, treatment, or disposal and the generator complies with all storage requirements of Part 372, Subparts 373-1, 373-2, and 373-3 of this Title.”*

13. Respondent's violations 1-3 above are a violation of the land disposal restriction regulations incorporated by reference at regulations at 6 NYCRR §372.2(a)(8)(ii).

#### Fifth Violation

14. Regulations at 6 NYCRR §374-3.2(d)(4)(i) provide that “*A small quantity handler of universal waste must contain any lamp in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers and packages must remain closed and must lack evidence of leakage, spillage or damage that could cause leakage under reasonably foreseeable conditions.*”

15. At the time of the inspection, Department staff observed seven containers of lamps to be open despite no waste being added or removed at the time of the inspection. The containers were located on the LSRB loading dock, the SS loading doc and room LC/SB-24.

16. Respondent violated regulations at 6 NYCRR §374-3.2(d)(4)(i) by failing to properly close the container holding universal waste.

#### Sixth and Seventh Violations

17. Regulations at 6 NYCRR §374-3.2(d)(4)(ii) provide that “*A small quantity handler of universal waste must immediately clean up and place in a container any lamp that is broken and must place in a container any lamp that shows evidence of breakage, leakage, or damage that could cause the release of mercury or other hazardous constituents to the environment. Containers must be closed, structurally sound, compatible with the contents of the lamps and must lack evidence of leakage, spillage or damage that could cause leakage or releases of mercury or other hazardous constituents to the environment under reasonably foreseeable conditions.*”

18. Regulations at 6 NYCRR §374-3.2(h)(1) provide that “*A small quantity handler of universal waste must immediately contain all releases of universal wastes and other residues from universal wastes.*”

19. At the time of the inspection, two open boxes of broken lamps were observed in room LC/SB-24.

20. Respondent violated regulations at 6 NYCRR §374-3.2(d)(4)(ii) and 6 NYCRR §374-3.2(h)(1) by failing to close the box that contains the broken lamps.

#### Eighth Violation

21. Regulations at 6 NYCRR §374-3.2(e)(1) provides that “*Universal waste batteries (i.e., each battery), or a container in which the batteries are contained, must be labeled or marked clearly with any one of the following phrases: "Universal Waste - Battery(ies)," or "Waste Battery(ies)," or "Used Battery(ies)." "*

22. At the time of the inspection, Department staff observed unlabeled batteries on the LSRB loading dock.

23. Respondent violated regulations at 6 NYCRR §374-3.2(e)(1) by failing to label batteries on the LSRB loading dock.

### Ninth Violation

24. Regulations at 6 NYCRR §374-3.2(e)(5) provide that “*Each lamp or a container or package in which such lamps are contained must be labeled or marked clearly with one of the following phrases: Universal Waste-Lamp(s), or Waste Lamp(s), or Used Lamp(s).*”

25. At the time of the inspection, Department staff observed unlabeled containers of lamps or individual lamps that were not labeled, in the LSRB loading dock area, the SS dock and room LC/SB-24.

26. Respondent violated regulations at 6 NYCRR §374-3.2(e)(5) by failing to label the containers of lamps and individual lamps.

### Civil Penalties

27. 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

28. 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

In respect to the aforesaid violation, a civil penalty in the amount of TEN THOUSAND ONE HUNDRED SEVENTY FIVE DOLLARS (\$10,175) is hereby assessed against the Respondent and shall be payable to the New York State Department of Environmental Conservation by money order or certified check.

#### II. 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.

### III. 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.

### IV. Effective Date

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

### V. 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.

### VI. 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.

### VII. 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 Respondents compliance with this Order.

### VIII. 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: *August 21*, 2015  
Rotterdam, NY

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

BY:

  
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Keith Goertz  
Regional Director  
Region 4

