



STATE OF CONNECTICUT
DEPARTMENT OF ENVIRONMENTAL PROTECTION



STATE OF CONNECTICUT) ORDER NO. 2108
vs.)
EVONIK CYRO LLC)

CONSENT ORDER

A. With the agreement of the Evonik Cyro LLC ("Respondent"), the Commissioner of Environmental Protection ("Commissioner") finds the following:

- 1. The Respondent, who is formerly known as Cyro Industries, maintains and operates a polymer manufacturing facility at South Cherry Street, Wallingford, Connecticut ("facility").
2. The Respondent has owned and operated the facility since July 2005.
3. At the facility, the Respondent maintains and operates a small diesel emergency engine, a small propane emergency engine, two (2) small propane fired fluidized bed ovens, a small natural gas fired furnace and thermoplastic operations. The thermoplastic operations consist of the following processes:
A. Raw Material Storage Tanks/Vessels
B. Monomer Preparation
C. Polymer Production
D. Grafted Rubber Preparation
E. Solvent Recovery Operations
F. Dye Preparation
G. Post Color Operations
H. Equipment leaks and fugitive emissions
4. Federally regulated Hazardous Air Pollutants ("HAP")/Volatile Organic Compounds ("VOC") used in the polymer processes include Methyl Methacrylate, Styrene, Ethyl Acrylate and Toluene.
5. On February 28, 2007, the Department of Environmental Protection ("Department") issued Consent Order No. 8268, which imposed Reasonably Available Control Technology ("RACT") for the thermoplastic operations. Pursuant to paragraph B.8 of the RACT Order, the Respondent must submit an Intent-to-Test form within 180 days after issuance of the RACT Order and conduct a performance test for the VOC capture and recovery devices.
6. On May 13, 2009, a representative of the Department conducted an inspection at the facility and

determined that the Respondent completed an approved performance test for the VOC capture and recovery devices. However, the Department determined that the Respondent violated the RACT Order by failing to submit an Intent-to-Test form by August 22, 2007, as required by the RACT Order. The Intent-to-Test form was submitted on August 26, 2008, twelve (12) months late. Consequently, the required performance test of the VOC capture and recovery device was significantly delayed.

7. On July 1, 2009, the Department issued Notice of Violation 16358 for failure to timely submit the Intent-to-Test form.
 8. Based on Department records, the potential emissions of toluene are ten (10) tons or more per year. Pursuant to Section 22a-174-33 of the Regulations, the facility is a Title V source based on potential emissions of toluene and subject to the requirement to either apply for a Title V Operating Permit or obtain a permit or order limiting the potential emissions from the source. According to Section 22a-174-33(f) of the Regulations, the owner or operator of a Title V source must apply for a Title V Operating Permit within twelve (12) months after becoming subject to this section.
 9. On May 13, 2009, a representative of the Department conducted an inspection at the facility and determined that the Respondent violated Section 22a-174-33 of the Regulations because the Respondent failed to obtain a permit or order limiting its potential to emit or apply for a Title V Operating Permit by May 31, 2006, twelve (12) months after becoming subject. Consequently, Notice of Violation 16357 was issued to the Respondent on June 1, 2009.
 10. According to Department records, the diesel emergency engine referenced in paragraph A.3 of this Consent Order has the potential to emit 274 pounds or more per day of Nitrogen Oxides (NOx). Pursuant to Section 22a-174-22 of the Regulations, the diesel emergency engine is subject to NOx controls and the requirement to submit a NOx Compliance Plan, four (4) months after becoming subject to this section.
 11. On July 16, 2009, a representative of the Department conducted a record review and determined that the Respondent violated Section 22a-174-22 of the Regulations because the Respondent failed to submit a NOx Compliance Plan for the diesel emergency engine. To date, the Respondent has not submitted a NOx Compliance Plan.
 12. By virtue of the above, the Respondent violated RACT Order No. 8268 and Sections 22a-174-22 and 33 of the Regulations.
 13. According to the Department's records, the Respondent submitted a Title V Operating Permit application on November 5, 2008. Presently, the approval of the Title V Operating Permit application is pending the Commissioner's review and written approval.
- B. With the agreement of the Respondent, the Commissioner, acting under §§22a-6, 22a-171, 22a-174, 22a-177, and 22a-178 of the Connecticut General Statutes orders the Respondent as follows:
1. Within sixty (60) days after issuance of this Consent Order, the Respondent shall submit a NOx Compliance Plan to the Department in accordance with Section 22a-174-22(m) of the Regulations.

2. Civil Penalty. On or before thirty (30) days after issuance of this Consent Order, the Respondent shall pay a penalty of thirty-eight thousand one hundred and twenty-five dollars (\$38,125) as the total civil penalty to be sought by the Commissioner for the violations identified in paragraphs A.6, A.9 & A.11 of this Consent Order.
3. Payment of penalties. Payment of penalties under this consent order shall be mailed or personally delivered to the Bureau of Financial & Support Services-Accounts Receivable Office, Department of Environmental Protection, 79 Elm Street, Hartford, CT 06106-5127, 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, Compliance and Field Operations, Consent Order No. 2108."
4. Full compliance. Respondent shall not be considered in full compliance with this Consent Order until all actions required by this Consent Order have been completed as approved and to the Commissioner's satisfaction.
5. 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 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 30 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.
6. Definitions. As used in this Consent Order, "Commissioner" means the Commissioner or a representative of the Commissioner.
7. Dates. The date of "issuance" of this Consent Order is the date the Consent Order is deposited in the U.S. mail or personally delivered, whichever is earlier. 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 deposited in the U.S. mail or is personally delivered, 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 a Connecticut or federal holiday shall be submitted or performed by the next day which is not a Saturday, Sunday or Connecticut or federal holiday.
8. 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 Respondent or, if Respondent is not an individual, by Respondent's chief executive officer or a duly authorized representative of such officer, as those terms are defined in §22a-430-3(b)(2) of the Regulations of Connecticut State Agencies, and by the individual(s) responsible for actually preparing such document, and Respondent or Respondent's chief executive officer and each such individual shall certify in writing

as follows:

"I have personally examined and am familiar with the information submitted in this document and all attachments thereto, and I certify, based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, that the submitted information is true, accurate and complete to the best of my knowledge and belief. I understand that any false statement made in the submitted information may be punishable as a criminal offense under §53a-157b of the Connecticut General Statutes and any other applicable law."

9. 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.
10. False Statements. Any false statement in any information submitted pursuant to this Consent Order may be punishable as a criminal offense under §53a-157b of the Connecticut General Statutes and any other applicable law.
11. Notice of transfer; liability of Respondent. Until Respondent has fully complied with this Consent Order, Respondent shall notify the Commissioner in writing no later than 15 days after transferring all or any portion of the facility, the operations, the site or the business which is the subject of this Consent Order or after 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.
12. Commissioner's powers. Except as provided hereinabove with respect to payment of civil penalties, nothing in this Consent Order shall affect the Commissioner's authority to institute any proceeding or take any other action to prevent or abate violations of law, prevent or abate pollution, recover costs and natural resource damages, and to impose penalties for past, present, or future violations of law. If at any time the Commissioner determines that the actions taken by Respondent pursuant to this Consent Order have not successfully corrected all violations, fully characterized the extent or degree of any pollution, or 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 violations or pollution.
13. Respondent's obligations under law. Nothing in this Consent Order shall relieve Respondent of other obligations under applicable federal, state and local law.
14. 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.
15. Access to site. Any representative of the Department of Environmental Protection may enter the facility without prior notice for the purposes of monitoring and enforcing the actions required or allowed by this Consent Order.
16. No effect on rights of other persons. This Consent Order neither creates nor affects any rights of persons

or municipalities that are not parties to this Consent Order.

17. Notice to Commissioner of changes. Within 15 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.
18. 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 by telephone the individual identified in the next paragraph 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. Within five (5) days of the initial notice, Respondent shall submit in writing the date, time, and duration of the noncompliance and 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.
19. 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. Seng Phouthakoun
Department of Environmental Protection
Bureau of Air Management
Compliance and Field Operations Division
79 Elm Street
Hartford, Connecticut 06106-5127

20. Joint and several liability. Respondents shall be jointly and severally liable for compliance with this Consent Order.

Respondent consents to the issuance of this Consent Order without further notice.

Evonik Cyro LLC

Signature: Jean Marion
 Type Name: Jean Marion
 Type Title: Plant Manager
 Date: July 21, 2010

Issued as a final order of the Commissioner of Environmental Protection.

Amey Marrella 8/6/10
 Amey Marrella Date
 Commissioner

TOWN OF WALLINGFORD
LAND RECORDS
MAILED CERTIFIED MAIL,
RETURN RECEIPT REQUESTED

Certified Document No. 71 9001 8900 1000 0356 00