



**STATE OF CONNECTICUT
DEPARTMENT OF ENVIRONMENTAL PROTECTION**



STATE OF CONNECTICUT

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ORDER NO. 2197

VS.

CYTEC INDUSTRIES, INC

CONSENT ORDER

A. With the agreement of Cytec Industries, Inc. ("Respondent"), the Commissioner of Environmental Protection ("Commissioner") finds the following:

1. Respondent is a research-based chemical company, which develops and manufactures proprietary products and technology located on South Cherry Street, Wallingford, CT 06492 ("facility").
2. Respondent is a major stationary source for Nitrogen Oxides ("NO_x"), Sulfur Oxides ("SO_x"), Volatile Organic Compounds ("VOC") and Hazardous Air Pollutants ("HAPs").
3. Respondent operates under Title V Permit No. 189-0136-TV ("Operating Permit").
4. At the facility, the Respondent operates a tank ("Tank 120-13"), which is used to hold xylene and is subject to 40 CFR 63, Subpart FFFF (National Emissions Standards for Hazardous Air Pollutants—Miscellaneous Organic Chemical Manufacturing "MON") and three dual-fuel fired boilers: No. 1, 3, and a Hot Oil 150 Furnace, which are subject to Section 22a-174-22 of the Regulations of Connecticut State Agencies ("Regulations") pertaining to the control of NO_x emissions ("NO_x RACT").
5. Pursuant to 40 CFR 63.2480 of the MON, the Respondent shall comply with the requirements of 40 CFR 63, Subpart UU (National Emission Standards for Equipment Leaks—Control Level 2 Standards) and the requirements referenced therein that apply to the Respondent's equipment leaks.
6. Pursuant to 40 CFR 63.1024, the Respondent shall repair each leak detected as soon as practical, but not later than 15 calendar days after it is detected. A first attempt at repair shall be made no later than five (5) calendar days after the leak is detected.
7. The Respondent detected a leak from the agitator seal on Tank 120-13 on June 11, 2008. The repair was required to be made by June 26, 2008.

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Date Issued: May 11, 2011

Affirmative Action/Equal Opportunity Employer

8. The Respondent tightened the seal packing as the first attempt to repair the leak within five days. The Respondent determined that the first attempt failed to correct the leak. The leak was repaired on August 14, 2008, 64 days after the leak was detected or 49 days late.
9. Pursuant to Section 22a-174-22(k)(1) of the Regulations, NOx emission tests are to be conducted at least once every five years after performing the initial NOx emission test to ensure continued compliance with the allowable NOx RACT emission rates set forth in Section 22a-174-22 of the Regulations.
10. The Respondent was unable to comply with the NOx RACT limit of 0.25 lbs/mmBtu when firing oil. In order to comply with Section 22a-174-22 of the Regulations, the Respondent operated under Trading Agreement and Order No. 8114A (“Order”), which averaged the NOx emissions from the Respondent’s emissions units operating on both oil and natural gas. Since the units emit less NOx than the emissions limit for natural gas, the Respondent was allowed to use the lower emissions on natural gas to offset the higher emissions on oil. The Order was issued by the Commissioner on April 24, 2003.
11. The Order was modified on May 22, 2007 as Modification 1 to the Order (“Order Mod 1”) to extend the effective date of the Order to May 1, 2009. Table 1 of Order Mod 1 specifies the date by when the NOx RACT testing for the Respondent’s subject units was required. The Order was further modified on April 30, 2009 as Modification 2 to the Order (“Order Mod 2”) to extend the effective date of the Order to May 1, 2010.
12. The Respondent submitted an Intent-to-Test (“ITT”) protocol to the Source Emissions Monitoring (“SEM”) group on January 21, 2010. Pursuant to Section 22a-174-22(k)(3) of the Regulations, the Respondent shall notify the Commissioner in writing at least thirty (30) days prior to conducting any performance testing. The ITT protocol stated that NOx testing was proposed for the emissions units while firing natural gas for February and that testing for oil would be accomplished in May 2010.
13. Pursuant to the Order Mod 2 and all previous modifications thereto and the Operating Permit, the Respondent was required to test Boilers 1 and 3 for NOx emissions on natural gas by January 31, 2010; Boiler 1 for NOx emissions on No. 6 fuel oil by February 2, 2010; and the Hot Oil 150-Furnace for NOx emissions on No. 2 fuel oil by February 1, 2010.
14. The Respondent tested Boilers 1 and 3 for NOx on natural gas only on February 15, 2010, or 15 days late and avoided testing Boiler 1 and the Hot Oil 150 Furnace for NOx on fuel oil.
15. Based on these discoveries, the Department issued two (2) Notices of Violation, numbered 16399 and 16480.
16. By virtue of the above, the Respondent violated 40 CFR 63, subpart UU, Section 22a-174-22 of the Regulations, the Operating Permit, and the Order as modified.

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. Civil penalty. On or before 30 days after issuance of this consent order, the Respondent shall submit a penalty of \$52,000 as the total civil penalty to be sought by the Commissioner for the violations described in Paragraphs A.8 and A.14 of this Consent Order.
2. Payment of penalties. Payment of penalties under this consent order shall be mailed or personally delivered to the Department of Environmental Protection, Bureau of Financial and Support Services, Accounts Receivable Office, 79 Elm Street, Hartford, CT 06106-5127, and shall be by certified or bank check payable to "Treasurer, State of Connecticut." The check shall state on its face, "Bureau of Air Management, Engineering and Enforcement Division Civil Penalty, Consent Order 2197."
3. Full compliance. The 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.
4. Approvals. The 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 the Respondent that any document or other action is deficient, and does not approve it with conditions or modifications, it is deemed disapproved, and the 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.
5. Definitions. As used in this Consent Order, "Commissioner" means the Commissioner or a representative of the Commissioner.
6. 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.
7. 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 the Respondent or, if the Respondent is not individuals, by the 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 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."

8. 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 the Respondent to an injunction and penalties.
9. 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.
10. Notice of transfer; liability of Respondent. Until the Respondent has fully complied with this Consent Order, the 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. The 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.
11. 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 the 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 the Respondent to undertake further investigation or further action to prevent or abate violations or pollution.
12. Respondent's obligations under law. Nothing in this Consent Order shall relieve the Respondent of other obligations under applicable federal, state, and local law.
13. 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 the Respondent pursuant to this Consent Order will result in compliance.
14. 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.
15. 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.

16. Notice to Commissioner of changes. Within 15 days of the date the 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, the Respondent shall submit the correct or omitted information to the Commissioner.
17. Notification of noncompliance. In the event that the Respondent become 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, the 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, the 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 the Respondent shall comply with any dates which may be approved in writing by the Commissioner. Notification by the 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.
18. Joint and several liability. Respondent shall be jointly and severally liable for compliance with this Consent Order.
19. Submission of documents. Any document required to be submitted to the Commissioner under this Consent Order shall, unless otherwise specified in this Consent Order or in writing by the Commissioner, be directed to:

Rickey Bouffard, Air Pollution Control Engineer
Department of Environmental Protection
Bureau of Air Management
Engineering and Enforcement Division
79 Elm Street
Hartford, Connecticut 06106-5127

Respondent consents to the issuance of this consent order without further notice. The undersigned certifies that he/she is fully authorized to enter into this consent order and to legally bind the Respondent to the terms and conditions of the consent order.

Cytec Industries, Inc.

Signature: T. Brett Gibbs

Type Name: Brett Gibbs

Type Title: Site Manager

Date: 12 Apr 2011

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

Amy Marcella
for Daniel C. Esty
Commissioner

5/10/11
Date

MAILED CERTIFIED MAIL
RETURN RECEIPT REQUESTED