

STATE OF CONNECTICUT

vs.

EVONIK CYRO, LLC

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ORDER NO. 2512

### CONSENT ORDER

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

1. The Respondent maintains and operates a polymer manufacturing facility at 528 South Cherry Street, Wallingford, Connecticut ("facility").
2. 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, regenerative carbon beds 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
3. Federally regulated Hazardous Air Pollutants ("HAP")/Volatile Organic Compounds ("VOC") used in the polymer processes include, but are not limited to, methyl methacrylate, styrene, ethyl acrylate and toluene.
4. The thermoplastic operations referenced in paragraphs A.2. & A.3. in this Consent Order are subject to 40 CFR Part 63 Subpart FFFF - National Emission Standards for Hazardous Air Pollutants for Miscellaneous Organic Chemical Manufacturing.
5. On February 28, 2007, the Department of Environmental Protection ("Department") issued Consent Order 8268, which imposed Reasonably Available Control Technology ("RACT") for the thermoplastic operations, because the facility's potential emission of VOC/HAP is 50 tons or more per year.
  - a. Pursuant to paragraph B.3 of Consent Order 8268, the Respondent shall operate and maintain the

Issued Date: 2/11/2019

regenerative carbon beds to continually achieve an 85% reduction of the uncontrolled VOC emission generated from the polymer processes referenced in paragraphs A.2.b. - A.2.g. of this Consent Order.

- b. Pursuant to paragraph B.8.f. of Consent Order 8268, the Respondent shall perform stack emissions testing to evaluate the performance of the regenerative carbon beds. Moreover, such emissions testing shall be repeated, such that no less than two programs of emissions testing are performed during each span of five consecutive calendar years from the date of the initial performance test.
  - c. Pursuant to paragraph B.8.a. of Consent Order 8268, the Respondent shall install and locate all sample ports to comply with EPA Test Method 1.
- 6. On July 13, 2010, the Respondent obtained Title V Operating Permit 189-0237-TV ("Title V Operating Permit") because the facility's potential emission of VOC/HAP is 50 tons or more per year. Subsequently, the Title V Operating Permit was renewed on June 26, 2015 and August 23, 2018.
  - 7. On September 24, 2015, the Respondent conducted emissions testing to demonstrate compliance with the requirements of Consent Order 8268 and Title V Operating Permit.
  - 8. Based on the September 24, 2015 stack test, the Department determined that the Respondent failed to operate and maintain one of the carbon beds to continuously achieve an 85% VOC destruction efficiency as required by paragraph B.3 of Consent Order 8268. Whereas the Respondent failed to operate and maintain one of the carbon beds to achieve an 85% or better VOC destruction efficiency, the Department determined that the Respondent violated paragraph B.3. of Consent Order 8268 and issued Notice of Violation ("NOV") 17704 on May 19, 2016.
  - 9. In March 2017, the Department rejected the test results obtained from the September 24, 2015 test because some components of the test were determined to be deficient.
  - 10. Responding to NOV 17704, the Respondent identified the root cause to be contaminated air purging during cleaning of the VOC capture and control device and that the Respondent corrected the violation by installing a new air purging system which uses clean air rather than recycled air.
  - 11. On August 21, 2017, the Department issued NOV 17842 alleging a violation of paragraph B.8.a. of Consent Order 8268 in that the Respondent failed to have a sample port be at a location that is in compliance with 40 CFR Part 60 Appendix A, Method 1.
  - 12. Responding to NOV 17842, the Respondent corrected and relocated the sample port to comply with 40 CFR Part 60 Appendix A, Method 1. It appears this corrective action has adequately addressed the violation.
  - 13. On February 23, 2018, the Respondent completed a retest to demonstrate compliance with Consent Order 8269 and the Title V Operating Permit. Subsequently, the test reports were submitted for the Department's review and approval.
    - a. On March 28, 2018, the Respondent submitted a test report summarizing the total VOC emissions



for the thermoplastic operations from the February 23, 2018 test;

- b. On August 1, 2018, the Respondent submitted a test report summarizing some of the HAP emissions for the thermoplastic operations from the February 23, 2018 test.
14. Pursuant to Section III.A.1.a.i. of the Title V Operating Permit and 40 CFR Section 63.2445, the permittee shall reduce emissions of total organic HAP to an outlet process concentration less than or equal to 20 ppm as organic HAP or total organic compounds by venting emissions through a closed-vent system to any combination of control devices.
15. On May 15, 2018, a representative of the Department reviewed the March 28, 2018 test report referenced in paragraph A.13.a. of this Consent Order and determined that the overall VOC destructions for the regenerative carbon beds were greater than 85%. The Department however determined that the VOC concentration for the thermoplastic operations was 27 ppm. Because the VOC emission for the thermoplastic operations was more than 20 ppm, the Department determined that the Respondent violated Section III.A.1.a.i of the Title V Operating Permit and 40 CFR Section 63.2445. As a result, the Department issued NOV 17912 to the Respondent on July 2, 2018.
16. Responding to NOV 17912, the Respondent submitted the August 1, 2018 report referenced in paragraph A.13.b. of this Consent Order. A representative of the Department reviewed the August 1, 2018 report and rejected the August 1, 2018 report. The August 1, 2018 report failed to represent the total HAP emissions generated from the thermoplastic operations. The August 1, 2018 report omitted some of the HAP listed in the Intent to Test Protocol dated June 29, 2017.
17. The Respondent performed the HAP chemical analysis following Toxic Organics (TO)-15 procedures for Method 18 using SUMMA canisters; however, Method 18 does not allow the use of SUMMA canisters for determining compliance.
18. Pursuant to Section 22a-174-22f(d)(2) of the Regulations, an owner and operator of an emergency engine shall not operate the emergency engine for routine, scheduled testing or maintenance on days when the ambient ozone is forecasted by the Commissioner to be moderate to unhealthy.
19. On April 27, 2018, a representative of the Department inspected the facility. The Department's representative reviewed the facility's records and determined that the Respondent operated the emergency engine on May 25, 2016, on which day the Department forecasted to be unhealthy. Whereas the Respondent operated the emergency engine on a day that the Department forecasted to be an unhealthy ozone day, the Respondent violated Section 22a-174-22f(d)(2) of the Regulations. Consequently, the Department issued NOV 17913 to the Respondent on June 30, 2018.
20. Responding to NOV 17913, the Respondent corrected the procedures which now requires that their employees check with the Respondent's on-site management prior to testing the emergency engine to ensure that the Air Quality Index is not unhealthy. It appears this corrective action has adequately addressed the violation.
21. By virtue of the above, the Respondent has violated Section III.A.1.a.i of the Title V Operating Permit; 40

CFR Section 63.2445; paragraphs B.3. & B.8. of Consent Order 8268 and Section 22a-174-22f(d)(2) of the Regulations.

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. The Respondent shall comply with Title V Operating Permit 189-0237-TV and Section 22a-174-22f(d)(2) of the Regulations.
2. Emissions testing. Within 60 days after issuance of this Consent Order, the Respondent shall perform an air emissions test to demonstrate compliance with Section III.A.1.a.i of the Title V Operating Permit and 40 CFR Section 63.2445 for all applicable HAPs.

Respondent shall submit to the Commissioner for the Commissioner's review and written approval an Intent To Test ("ITT") protocol prior to conducting such emissions testing. The ITT protocol shall include at least:

- i. The Department's Bureau of Air Management Test Form No. 1, "Intent to Test";
  - ii. A detailed description of all aspects of facility operations (e.g., type and quantity of raw materials utilized) and of any air pollutant control equipment in use which may affect emissions testing results, and how and when such information will be monitored;
  - iii. A detailed description of each emissions testing methodology to be utilized, provided that all such methodologies shall conform to those approved by the U.S. Environmental Protection Agency and the Commissioner; and
  - iv. A description of each discharge point at which emissions testing is to be conducted.
3. Within 30 days after completion of the air emissions test referenced in paragraph B.2. of this Consent Order, the Respondent shall submit approvable results representative of the actual HAP emissions.
  4. Civil Penalty. On or before thirty (30) days after the issuance of this Consent Order, the Respondent shall pay a penalty in the amount of \$16,100 as the total civil penalty to be sought by the Commissioner for those, and only those violations described in paragraphs A.8., A.11., A.15. and A.19. of this Consent Order.
  5. Payment of penalties. Payment of penalties under this Consent Order shall be mailed or personally delivered to the Department of Energy and 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 civil penalty, Consent Order No. 2512."
  6. 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.

7. Approvals. Respondent shall use best efforts to submit to the Commissioner documents, if any, 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.
8. Definitions. As used in this Consent Order, "Commissioner" means the Commissioner or a representative of the Commissioner.
9. 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.
10. 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."
11. 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.



12. 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.
13. 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.
14. 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.
15. Respondent's obligations under law. Nothing in this Consent Order shall relieve Respondent of other obligations under applicable federal, state and local law.
16. 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.
17. 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.
18. 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.
19. 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.
20. 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.

21. 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 Energy and Environmental Protection  
Bureau of Air Management  
Engineering & Enforcement Division  
79 Elm Street  
Hartford, Connecticut 06106-5127  
860 424-4152

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.

Evonik Cyro, LLC

Signature: \_\_\_\_\_

Type Name: \_\_\_\_\_

Type Title: \_\_\_\_\_

Date: \_\_\_\_\_

Issued as a final order of the Commissioner of the Department of Energy and Environmental Protection.

\_\_\_\_\_  
Katherine S. Dykes, Commissioner  
Department of Energy and Environmental Protection

\_\_\_\_\_  
Date

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

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