



State of Ohio Environmental Protection Agency

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January 28, 2008

Mr. R. B. Tabakin
Cytec Industries
Five Garret Mountain Plaza
West Patterson, New Jersey 07425

Re: **Cytec Industries**
OHD004341509
Financial Assurance

Dear Mr. Tabakin:

On January 7, 2008, I conducted a financial assurance review for Cytec Industries. I evaluated the facility for compliance with Ohio Administrative Code (OAC) rules 3745-55-44 and 3745-55-45 and Permit Conditions A. 27 (b) (i)(ii) and B.36 and B.37, post-closure cost estimate and post-closure care. Since 2006, Cytec has not provided adequate financial assurance documentation with the corrected permit classification modification.

2006 Financial Assurance

Cytec provided alternate financial assurance documentation in 2006. The Financial Test was replaced with a Letter of Credit (LOC) and Standby Trust Agreement (SBTA). Documentation received April 6 and May 9, 2006 included: A Certificate of Insurance for sudden liability coverage, Standby Letter of Credit (LOC) No. LG/MIS/NY-002928, issued by Sumitomo Mitsui Banking Corporation, in favor of de maximis, inc. and SBTA for non-sudden liability coverage entered into as of March 31, 2006 by and between Cytec Industries Inc. and de maximis, inc. and Closure/Post-Closure Standby LOC No. S032995 issued by Bank of Tokyo-Mitsubishi UFJ Trust Company and Standby Trust Fund for closure/post-closure care.

However, the LOC and SBTA were not adequate and the LOC accompanying letter had not been provided. Therefore, Cytec was cited in violation of OAC rule 3745-55-44, 3745-55-51(A) and 3745-55-51(D) in a June 28, 2006 Notice of Violation (NOV) letter. On May 5, 2006, Ohio EPA received a class 1 hazardous waste permit modification request from Cytec Industries to request an update to the closure cost estimate. On May 26, 2006 Ohio EPA determined the permit modification application had been incorrectly classified and recommended Cytec withdraw the modification and resubmit as a class 1A permit modification.

As noted in my January 9, 2007 letter, **documentation received on August 11, 2006 and January 3, 2007 abated the above violations cited in the June 28, 2006 letter.** Documentation included a Post-Closure Letter of Credit issued by Bank of Tokyo-Mitsubishi UFJ Trust Company LOC no. S033014 and a Standby Trust Agreement with Union Bank of California, N.A. However, *the revised permit modification request was not re-submitted.*

Ted Strickland, Governor
Lee Fisher, Lieutenant Governor
Chris Korleski, Director



2007 Financial Assurance

On June 1, 2007, I conducted a review of the financial assurance documentation on file for Cytec Industries, Inc. And in a June 25, 2007 letter I requested clarification of the cost estimate discrepancy and suggested a permit modification be submitted for the cost estimate. In response to my June 25, 2007 letter, Ohio EPA received on July 24, 2007 a RCRA Part B Permit Classification 1 Modification for Financial Assurance. The modification includes inconsistent post-closure cost estimates and inadequate financial assurance. Financial assurance includes an irrevocable standby LOC no. S032995, effective April 28, 2006, issued by the Bank of Tokyo-Mitsubishi UFJ Trust Company and a SBTA Union Bank of California entered into April 28, 2006 by and between Cytec Industries and de maximis inc. These documents were previously submitted in 2006 and noted inadequate; however, they were revised with later submissions.

Upon review of the above information, **Cytec is in violation of their Ohio Hazardous Waste Permit Conditions A.27(b)(i)(ii) and B.36 and B.37** because Cytec has not clearly stated their post-closure cost estimate with the corrected classification modification or their financial assurance mechanism with the permit modification.

The Standby LOC no. S033014 issued by Bank of Tokyo Mitsubishi UFJ Trust Company and SBTF are the current financial assurance mechanisms. On August 3, 2007, a detailed post-closure cost estimate was submitted to Ohio EPA, however the information needs to be re-submitted as a formal request for permit modification. *To abate the above violations, these documents and the facility's current cost estimate must be submitted as a permit modification with the proper classification.* This documentation must be submitted as a request to modify the facility's permit.

The modification should be sent within thirty days of receipt of this letter to Dave Sholtis in Ohio EPA's Division of Hazardous Waste Management (DHWM), Regulatory and Information Services Section, with courtesy copies to Dan Lukovic of DHWM's Engineering and Remediation Assistance Section (ERAS); and to Scott Bergreen in DHWM's Southeast District Office. If you have any questions about submittal of the permit modification request, please contact Dan Lukovic of DHWM's ERAS.

If you have any questions, do not hesitate to contact me at (614) 644-2951.

Sincerely,



Tina Jennings
Compliance Assurance Section
Division of Hazardous Waste Management

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cc: Tammy McConnell, RIS, DHWM
Scott Bergreen, SEDO
Jeremy Carroll, ERAS, DHWM
Mr. Anton Marek, Director, Remediation

