



State of Ohio Environmental Protection Agency

STREET ADDRESS:

Lazarus Government Center
50 W. Town St., Suite 700
Columbus, Ohio 43215

TELE: (614) 644-3020 FAX: (614) 644-3184
www.epa.state.oh.us

MAILING ADDRESS:

P.O. Box 1049
Columbus, OH 43216-1049

December 21, 2010

W.J. Kandel
Solvay Advanced Polymers L.L.C.
P.O. Box 446
17005 State Route 7
Marietta, Ohio 45750-0446

RE: RCRA Permit Modification – Financial Assurance
Solvay Advanced Polymers, L.L.C. (OHD981529688)
Partial Return to Compliance

NOV

Dear Mr. Kandel:

In a letter dated September 15, 2010, Solvay Advanced Polymers, L.L.C. (Solvay) submitted additional financial assurance documentation for the Solvay Marietta Plant (Facility), in response to the Ohio EPA's Division of Hazardous Waste Management (DHWM) July 27, 2010, Notice of Violation (NOV). This documentation consisted of:

- 2010 Financial Assurance, Solvay Advanced Polymers, Marietta, Rates and Assumptions
- Estimated Costs for Closure of Container Storage Area... 2010
- Estimated Costs for Closure of Emergency Basin... 2010
- Estimated Costs for Post-Closure of Equalization Basin... 2010.

Prior to receiving the September 15, 2010, letter from Solvay, DHWM sent a Partial Return to Compliance (PRTC) letter dated September 20, 2010, abating several of the violations previously cited in DHWM's July 27, 2010, NOV. In electronic mail on November 17, 2010, DHWM received revised cost estimates from Solvay incorporating changes resulting from my telephone conversations with Mark Cunningham, the Environmental Engineer at the Facility. DHWM evaluated this documentation for compliance with the closure/post-closure cost estimates set forth in Ohio Administrative Code (OAC) rules 3745-55-42 through 3745-55-44 and Permit Conditions B.36., B.37. and B.38. **Based on a review of documentation submitted by Solvay, the remaining violations from the July 27, 2010, NOV have been abated as detailed below. However, the additional violation cited in the September 20, 2010, PRTC letter remains outstanding (see No. 11. below) pending submittal of revised documents.**

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

2. OAC rule 3745-55-42(B)(2), Cost Estimate for facility closure.

Solvay had failed to use the latest inflation factor of 1.18% to adjust the 2009 cost estimate to obtain the 2010 cost estimate. However, Solvay recalculated the cost estimate in current dollars. **Therefore this violation is abated.**

7. OAC rule 3745-55-44(A) Cost estimate for post-closure care.

The post-closure cost estimate needed to be updated and more detailed. In the September 15, 2010, documentation, Solvay revised the cost estimate for post-closure care of the Equalization Basin. This revised estimate provides adequate detail regarding the activities that must be conducted at the closed Equalization Basin, along with more accurate costs. The post-closure cost estimate was increased from \$1,074,727 (April 29, 2010) to \$1,336,068 (September 15, 2010) for the remaining 16 years of post-closure care. In electronic mail on November 17, 2010, DHWM received another revision to the cost estimate for post-closure care which proposes disposal of collected seep water at an off-site wastewater treatment plant (WWTP), instead of the In-site WWTP referenced in the September 15, 2010, estimate and increases the cost estimate for post-closure care to \$1,609,143. **Based on the revisions to the cost estimate for post-closure care, this violation is abated.**

8. OAC rule 3745-55-44(B) Cost estimate for post-closure care.

The post-closure cost estimate of \$1,074,727 (submitted in April, 2010) had been decreased by an amount greater than the annual inflation factor and reduction in number of years remaining for post-closure. **The revised post-closure cost estimate submitted by email on November 17, 2010, was calculated in current dollars, therefore this violation is abated.**

11. OAC rule 3745-55-47(A)(1)(a) Liability Requirements... The owner or operator must submit a signed duplicate original of the endorsement or the certificate of insurance to the director.

The Hazardous Waste Facility Certificate of Liability Insurance submitted by Solvay is not a signed duplicate original. Solvay must submit a signed duplicate original of the certificate of insurance. This issue was discussed with Mark Cunningham on December 15th and will be addressed in the next submittal.

In the September 20, 2010, PRTC letter, DHWM also expressed the following additional concerns with respect to the documents submitted by Solvay:

- A. The Certificate submitted by Solvay to provide financial assurance for closure and post closure does not contain the identical wording specified in the rule. A copy of OAC rule 3745-55-51(E) is attached and can also be found at the following link: http://www.epa.ohio.gov/portals/32/oac_rules/55-51.pdf
- B. Now that violation Nos. 2., 7., and 8., have been abated, the face value of the insurance policy for closure and post closure will need to be amended.
- C. In both the Certificate of Insurance for Closure or Post-Closure Care and the Hazardous Waste Facility Certificate of Liability Insurance, the Providers have listed specific units at the Facility. This meets the substantive requirement of the rule, but the intent of the rule was to list the Facility, not the individual units. This is particularly applicable to companies who may have multiple facilities, possibly in other states, with multiple hazardous waste units. The language in the rule must be followed.

Thank you for your continued diligence in addressing these matters. Note that once the violations of Ohio's hazardous waste financial assurance regulations are resolved, Solvay must modify the Facility's Permit to accurately reflect the current financial assurance documentation. Please respond to this letter within thirty days. If you have any questions, feel free to call me at (614) 644-3174 or send an email to kelly.smith@epa.state.oh.us.

Sincerely,



Kelly G. Smith
Compliance Assurance Section
Division of Hazardous Waste Management

ec: Elizabeth Herron, DHWM, SEDO
Mark Cunningham, Sr. Environmental Engineer, Solvay Advanced Polymers, L.L.C.
Joe Bush, Sr. Environmental Manager, Solvay Advanced Polymers, L.L.C.
Ms. Ginny Hubert, Solvay America, Inc., Houston
John Schierberl, DHWM, CAS

NOTICE: Ohio EPA's failure to list specific deficiencies or violations in this letter does not relieve your company from having to comply with applicable regulations.