



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

September 20, 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 August 13, 2010, Solvay Advanced Polymers, L.L.C. (Solvay) submitted financial assurance documentation for the Solvay Marietta Plant (Facility). On September 8, 2010, Ohio EPA's Division of Hazardous Waste Management (DHWM) conducted a review of these documents, which consisted of the following:

- a Certificate of Insurance for Closure or Post-Closure Care;
- a Hazardous Waste Facility Certificate of Liability Insurance.

DHWM evaluated this documentation for compliance with closure/post-closure cost estimates, closure/post-closure financial assurance requirements and liability coverage as set forth in Ohio Administrative Code (OAC) rules 3745-55-42 through 3745-55-47 and Permit Conditions B.36., B.37. and B.38. This documentation is a partial response to an Ohio EPA DHWM July 27, 2010 Notice of Violation (NOV) sent to Solvay for violations of the Ohio financial assurance regulations. For the Facility, Solvay maintains financial assurance for closure and liability coverage for its hazardous waste Container Storage Area and the Emergency Basin, and financial assurance for post closure of the Equalization Basin (Closure certified in 1996).

Based on discussions during several telephone calls with Mark Cunningham and Joe Bush from Solvay, the documentation submitted August 13, 2010 will only address the violations regarding the deficient financial assurance mechanism for closure and post-closure care and liability coverage. Once the financial assurance mechanism is deemed adequate by DHWM, Solvay will address the violations related to the insufficient post-closure cost estimate by submitting a RCRA Class 1 Permit Modification for Financial Assurance or as part of the upcoming overall Permit Renewal (current Permit expires in August, 2011) for the Facility. In the interim, Solvay has increased the financial assurance and cost estimates for closure and post closure care

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



at the Facility by 20% to account for contingencies. Solvay has also switched from the corporate guarantee mechanism to the insurance mechanism for financial assurance and liability coverage at the Facility:

Based on a review of the documentation submitted by Solvay, DHWM notes the following with respect to the violations set forth in the previous July 27, 2010 NOV:

**1. OAC rule 3745-55-42(A), Cost Estimate for facility closure.**

Solvay was in violation of this rule because the Container Storage Area and Emergency Basin cost estimates for closure failed to include contingency costs. Solvay has increased the closure cost estimate by 20% to account for contingencies. **Therefore this violation is abated.**

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

Solvay failed to use the latest inflation factor of 1.18% to adjust the 2009 cost estimate to obtain the 2010 cost estimate. Although Solvay added the 20% contingency cost, the 2009 estimate was not properly adjusted for inflation prior to adding the contingency cost. The 2009 closure cost estimate was \$4,565,625 and the 2010 estimate used previously by Solvay is \$4,593,018. If properly adjusted, the 2010 estimate should be \$4,619,499 ( $\$4,565,625 \times 1.0118$ ). An alternative would be to recalculate the cost estimate in current dollars. Solvay must properly adjust the closure cost estimate for inflation or recalculate the cost estimate in current dollars.

**3. OAC rule 3745-55-43(F)(1)(b)(i), Financial Assurance for facility closure. Financial test and guarantee.**

Solvay has submitted a Certificate of Insurance for Closure or Post-Closure Care to demonstrate financial assurance for closure and no longer relies on the Financial Test for financial assurance. **Therefore this violation is abated.**

**4. OAC rule 3745-55-43(F)(3)(a), Financial Assurance for facility closure. Financial test and guarantee.**

Solvay has submitted a Certificate of Insurance for Closure or Post-Closure Care to demonstrate financial assurance for closure and no longer relies on the Financial Test for financial assurance. **Therefore this violation is abated.**

**5. OAC rule 3745-55-43(F)(3)(c), Financial Assurance for facility closure. Financial test and guarantee.**

Solvay has submitted a Certificate of Insurance for Closure or Post-Closure Care to demonstrate financial assurance for closure and no longer relies on the Financial Test for financial assurance. **Therefore this violation is abated.**

**6. OAC rule 3745-55-43(F)(10), Financial Assurance for facility closure. Financial test and guarantee.**

Solvay is no longer using a corporate guarantee to provide financial assurance for closure. Solvay has submitted a Certificate of Insurance for Closure or Post-Closure Care to demonstrate financial assurance for closure and no longer relies on the Financial Test and guarantee for financial assurance. **Therefore this violation is abated.**

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

The post-closure cost estimate must be more detailed and updated to accurately reflect the current cost of post closure. Solvay has increased the financial assurance and cost estimates for post closure care at the Facility by 20% to account for contingencies. However, the current post-closure cost estimate is still inadequate. For example, the current projection for maintenance activities on the landfill cover has an estimated cost of \$2,214 over 16 years, for an average cost per year of \$138 per year. Based on telephone conversations with staff at Solvay, the cost estimates for post-closure care are in the process of being updated.

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

The post-closure cost estimate of \$1,074,727 was decreased by an amount greater than the annual inflation factor and reduction in number of years remaining for post-closure. Based on the post-closure cost estimate of \$1,296,305 given for 2009, the 2010 post-closure cost estimate should be at least \$1,234,448. Although Solvay added the 20% contingency cost, the 2010 estimate was decreased by an amount greater than the annual inflation factor and reduction in number of year remaining for post-closure. Solvay must properly adjust the post-closure cost estimate prior to adding the 20% contingency cost. Alternately, Solvay may recalculate the cost estimate in current dollars.

**9. OAC rule 3745-55-47(G)(1) Guarantee for liability coverage.**

Solvay is no longer using a corporate guarantee to provide liability coverage. Solvay has submitted a Hazardous Waste Facility Certificate of Liability Insurance. **Therefore this violation is abated.**

**10. OAC rule 3745-55-47(G)(1) Guarantee for liability coverage... The guarantor must meet the requirements for owners or operators in paragraph (F)(1) to (F)(6) of this rule.**

**OAC rule 3745-55-47(F)(3)(a) If an owner or operator is using the Financial Test...**

Solvay is no longer using the Financial Test and accompanying letter from the Chief Financial Officer to provide the Guarantee for liability coverage. Solvay has submitted a Hazardous Waste Facility Certificate of Liability Insurance. **Therefore this violation is abated.**

The review of the documents submitted by Solvay with the August 13, 2010 letter has identified the following additional violation:

**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.

Ohio EPA also has the following 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 the 3745-55-51(E) is attached to this letter and can also be found at the following link:

[http://www.epa.ohio.gov/portals/32/oac\\_rules/55-51.pdf](http://www.epa.ohio.gov/portals/32/oac_rules/55-51.pdf)

- B. Once the cost estimates are revised as required by Violation Numbers 2. and 8. in this letter, the face value of the policy 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. 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](mailto:kelly.smith@epa.state.oh.us).

Sincerely,



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

ec: Jeremy Carroll, RISS, DHWM  
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

**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.