

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

MEMORANDUM

SUBJECT: Consent Agreement and Final Order
IMO Nova Chemicals, Inc.
Docket No. RCRA-03-2017-0165

FROM: Catherine A. Libertz, Acting Director *CLJ 8-24-17*
Land and Chemicals Division

off Mary Coe *8-17-17*
Regional Counsel

TO: Joseph J. Lisa *JJL 8-30-2017*
Regional Judicial Officer

The attached Consent Agreement and proposed Final Order (“CA/FO”) was negotiated in response to an alleged violation of the authorized Pennsylvania Hazardous Waste Management Regulations, enforceable by EPA under Section 3008(a) of Resource Conservation and Recovery Act, 42 U.S.C. § 6928(a), pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits, 40 C.F.R. Part 22.1(a)(4), 22.13(b) and 22.18(b)(2).

The attached CA/FO directs Respondent to perform extensive injunctive relief at its Monaca, Pennsylvania Facility (*See Attachment A*). Upon satisfactory completion of the work EPA will issue a Termination Letter to Respondent. (*See Attachment B*).

We recommend that you sign the attached Final Order. After you execute the Final Order, please return the documents to Joyce Howell, x2644, for further processing.

Attachments

cc: Joyce Howell, Esq.
Dean Calland, Esq.

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**BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103**

In the Matter of:

Nova Chemicals Inc.
400 Frankfort Road
Monaca, PA 15061

Docket No. RCRA-03-2017-0165

RESPONDENT,

Nova Chemicals Inc.
400 Frankfort Road
Monaca, PA 15061
EPA ID Number PAR000023986,

**CONSENT AGREEMENT AND
FINAL ORDER**

FACILITY.

Proceeding under Section 3008(a) of the
Resource Conservation and Recovery Act,
42 U.S.C. § 6928(a).

1. This Consent Agreement and Final Order (hereinafter "CA/FO") is entered into by the Director, Land and Chemicals Division, U.S. Environmental Protection Agency, Region III ("EPA", or "Agency") and Nova Chemicals Inc. ("Respondent") pursuant to Sections 3008(a) of the Solid Waste Disposal Act, commonly known as the Resource Conservation and Recovery Act of 1976, as amended by *inter alia*, the Hazardous and Solid Waste Amendments of 1984 (collectively referred to hereinafter as "RCRA"), 42 U.S.C. §§ 6928(a), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. §§ 22.1(a)(4), 22.13(b) and 22.18((b)(2).
2. This CA/FO, addresses an alleged violation by Respondent of RCRA and the federally authorized Pennsylvania Hazardous Waste Management Regulations ("PaHWMR"), codified at 25 Pa. Code Chapters 260a – 266a, 266b, and 268a – 270a.

3. Effective January 30, 1986, the PaHWMR, and as revised November 27, 2000, March 22, 2004 and June 29, 2009, was authorized by the EPA pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), and 40 C.F.R. Part 271, Subpart A and thereby became requirements of RCRA Subtitle C and enforceable by EPA pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a). *See 51 Fed.Reg. 1791* (January 15, 1986), *65 Fed. Reg. 57734* (September 26, 2000), *69 Fed. Reg. 2674* (January 20, 2004) and *74 Fed. Reg. 19453* (April 29, 2009). The PaHWMR incorporate, with certain exceptions, specific provisions of Title 40 of the 1999 Code of Federal Regulations by reference. *See 25 Pa. Code § 260a.3(e)*.
4. RCRA compliance orders are subject to the requirements of the Consolidated Rules, which include the right to an administrative hearing. Pursuant to 40 C.F.R. § 22.37(b), compliance orders become final, unless, no later than thirty (30) days after the order is served, the respondent requests a hearing. As specified in Paragraphs 7 – 10, below, Respondent agrees to waive its right to a hearing.

I. GENERAL PROVISIONS

5. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this CA/FO.
6. Respondent neither admits nor denies the specific factual allegations and conclusions of law set forth this CA/FO, except as provided in Paragraph 5, above.
7. For the purposes of this proceeding only, Respondent agrees not to contest EPA's jurisdiction with respect to the execution and issuance of this CA/FO, or the enforcement of this CA/FO.
8. For purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in this CA/FO and any right to appeal the accompanying Final Order.
9. Respondent waives any right to judicial review of this CA/FO under Section 3008(b) of RCRA, 42 U.S.C. § 6928(b) and 40 C.F.R. § 22.15.
10. Respondent consents to the issuance of this CA/FO and agrees to comply with its terms.
11. Respondent and EPA shall bear their own costs and attorney's fees in connection with this proceeding.

Notice of Action to the Commonwealth of Pennsylvania

12. By letter to Thomas Mellot, Chief, Hazardous Waste Management Division, Pennsylvania Department of Environmental Protection (“PaDEP”), dated November 29 2016, EPA has given the Commonwealth of Pennsylvania, through PaDEP, prior notice of the initiation of this action in accordance with Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).
13. Upon making a determination that any person has violated or is in violation of any requirement of RCRA Subtitle C, and upon satisfying the notification requirements of RCRA Section 3008(a)(2), 42 U.S.C. § 6928(a)(2), RCRA Section 3008(a)(1), 42 U.S.C. § 6928(a)(1) authorizes the Administrator of EPA to issue an order for any past or current violation, requiring compliance immediately or within a specified time period, or both.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

14. Respondent, Nova Chemicals Inc., is a Delaware corporation and is a “person” as defined by RCRA Section 1004(15), 42 U.S.C. § 6903(15), and 25 Pa. Code § 260a.10.
15. Respondent is and has been, through the period of the violation alleged herein, the “owner” and “operator” of a “facility” located at 400 Frankfort Road, Monaca, Pennsylvania, as the term “facility” is defined in 25 Pa. Code § 260a.10 and the terms “owner” and “operator” are defined in 40 C.F.R. § 260.10 as incorporated by reference in 25 Pa. Code § 260a.1. Such facility is herein referred to as the “Facility.”
16. On September 25 – 26, 2013, EPA representatives conducted a Compliance Evaluation Inspection of the Facility.
17. Respondent is a large quantity generator as that term is defined in 25 Pa. Code § 260a.10 and has been assigned EPA identification number PAR000023986.
18. On September 11, 2014, EPA requested via telephone and email additional information from Respondent regarding waste streams entering the North Basin and Aeration Basin and a process description of the wastewater treatment operations at the Facility.
19. On October 10, 2014, Respondent provided a response to EPA’s September 11, 2014 request for additional information.
20. On October 22, 2014, EPA issued an Information Request Letter (“IRL”) pursuant to Section 3007(a) of the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. § 6927(a) to Respondent which sought information concerning the potential for RCRA

regulated hazardous wastes to enter certain non-RCRA regulated units in Respondent's wastewater treatment system at the Facility.

21. On December 12, 2014, Respondent submitted a response to the October 22, 2014 IRL.
22. On February 27, 2015, EPA issued a second IRL to Respondent.
23. On March 31, 2015 and April 13, 2016 Respondent submitted responses to the February 27, 2015 IRL.
24. On April 17, 2016, Respondent submitted supplemental documents in response to the October 22, 2014 and February 27, 2015 IRLs.
25. On April 18 – 19, 2016, EPA representatives conducted a site visit at the Facility.
26. As a direct result of the investigation by EPA of the Respondent's management of RCRA hazardous wastes in its wastewater treatment plant as described in Article II of this CA/FO, between April 19, 2016 and the Effective Date of this CA/FO Respondent states that it voluntarily performed the following tasks:
 - a. Chemical Identification and Characterization for RCRA Purposes: Respondent conducted a facility-wide chemical inventory, made hazardous waste determinations, and gave comprehensive RCRA characterization and management training to relevant facility employees.
 - b. RCRA Target List Materials Use and Potential Release Evaluation: Respondent evaluated each inventoried material's release potential, and reviewed previous incident reports to identify how the materials could have been better managed in the past.
 - c. Remedial Option Evaluation and Selection: Remedial options to address release risks identified in (b), above were identified through Respondent's internal operations/engineering evaluations, consultants' recommendations and discussions with EPA representatives. Third party consultants were utilized to review these options.
 - d. Voluntary Modifications to Respondent's Facility:
 - i. Respondent reprogrammed its control systems at the Facility Mix Pit and at an upstream location to provide an early warning of possible major pH fluctuations to enable faster response to prevent any unanticipated risks to the unlined units;

- ii. Respondent's analysis of the 2012 reactor release incident concluded that the critical collection system at the Facility D3 Unit in the event of a reactor issue are the Reactor Recovery Units ("boxes") in D3. Respondent upgraded the overall design of the boxes, upgraded the materials of construction of the box doors, eliminated volume constraints in the boxes by allowing material to flow box to box; and provided new options for controlled emptying and level management of the boxes.

COUNT I

(Failure to Perform a Hazardous Waste Determination)

27. The preceding paragraphs are incorporated by reference.
28. 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.11 with exceptions not relevant herein, provides that a person who generates a solid waste, as defined in 40 C.F.R. § 261.2, must determine if that waste is a hazardous waste using the following methods:
- (a) He should first determine if the waste is excluded from regulation under 40 C.F.R. § 261.4.
 - (b) He must then determine if the waste is listed as a hazardous waste in subpart D of 40 C.F.R. Part 261.
 - (c) For purposes of compliance with 40 C.F.R. Part 268, or if the waste is not listed in subpart D of 40 C.F.R. Part 261, the generator must then determine whether the waste is identified in subpart C of 40 C.F.R. Part 261 by either:
 - (1) Testing the waste according to the methods set forth in subpart C of 40 C.F.R. Part 261, or according to an equivalent method approved by the Administrator under 40 C.F.R. § 260.21; or
 - (2) Applying knowledge of the hazard characteristic of the waste in light of the materials or the processes used.
29. Waste styrene monomer is a characteristic hazardous waste (EPA Hazardous Waste No. D001) within the meaning of 25 Pa. Code § 261a.1, which incorporates by reference 40 C.F.R. § 261.21 because it exhibits the characteristic for ignitability.
30. The waste referred to in Paragraph 29, above, is and was at the time of the alleged violation “solid waste” and “hazardous waste” as this term is defined in 25 Pa. Code § 260a.10, which incorporates by reference 40 C.F.R. § 260.10.
31. On October 17, 2012, Respondent released wastewater containing waste styrene monomer from its manufacturing process into its wastewater treatment system. In its response to the February 27, 2015 EPA IRL, Respondent admitted it failed to perform a hazardous waste determination for the wastewater containing styrene before it entered the wastewater treatment system.

32. During the October 17, 2012 incident, ignitable hazardous waste entered non-RCRA units in Respondent's wastewater treatment system that did not meet the definition of "tank" in 40 CFR § 260.10.
33. On October 17, 2012, Respondent violated 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.11, by failing to perform a hazardous waste determination for wastewater containing styrene which is a solid waste generated at the Facility.

III. FINAL ORDER

34. While EPA is not seeking civil penalties as part of this Final Order, Section 3008(c) of RCRA, 42 U.S.C. § 6928(c), provides for the assessment of civil penalties for Respondent's noncompliance with a Final Order.
35. Respondent shall perform the Compliance Tasks set forth in Attachment A to this CA/FO which is appended hereto and incorporated herein. Respondent shall certify completion of such Compliance Tasks in accordance with Attachment A no later than the dates specified for each identified task on Attachment A.
36. Submissions to EPA: Any notice, certification, data presentation, report, or other document submitted by Respondent pursuant to this Final Order which discusses, describes, demonstrates, or supports any finding or makes any representation concerning Respondent's compliance or non-compliance with any requirements of this Final Order shall be certified by a responsible corporate officer of Respondent. A responsible corporate officer means: (1) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; (2) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars); or (3) the Site Manager of the Beaver Valley Facility, if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures. The aforesaid certification shall provide the following statement above the signature of the responsible corporate officer signing the certification on behalf of the Respondent:

I certify under penalty of law that this document and all attachments are true, accurate and complete. As to [the/those] identified portions of this [type of submission] for which I cannot personally verify [its/their] accuracy, I certify under penalty of law that this [type of submission] and all attachments were prepared in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

Signature: _____
Name: _____
Title: _____

Except as otherwise provided herein, notifications or submissions to EPA required by this Final Order shall be sent to the attention of:

Martin Matlin (3LC32)
Environmental Engineer
United States Environmental Protection Agency - Region III
1650 Arch Street
Philadelphia, PA 19103-2029; and

Joyce A. Howell (3RC30)
Sr. Assistant Regional Counsel
U.S. Environmental Protection Agency
1650 Arch Street
Philadelphia, PA 19103-202

Any communications from EPA to Respondent under this CA/FO shall be directed to :

Bryan Stanslowski
Responsible Care Specialist – Beaver Valley
NOVA Chemicals Inc.
400 Frankfort Road
Monaca, PA 15061

Larry Anderson
Director Legal, PE, Eastern and US Operations

NOVA Chemicals Corporation
1555 Coraopolis Heights Road
Moon Township, PA 15108

With a copy to:

Dean A. Calland
Babst Calland Clements & Zomnir, P.C.
Two Gateway Center
Pittsburgh, PA 15228
dcalland@babstcalland.com

37. Respondent shall submit progress reports to EPA for the tasks set forth in Attachment A in the manner described in Paragraph 36 by December 30, 2017, June 30, 2018, and December 30, 2018. These progress reports shall describe:
- a. The calendar period covered by the progress report;
 - b. Respondent's progress in implementing each of the tasks described in Attachment A;
 - c. Any anticipated or unanticipated problems in implementing or completing the tasks in Attachment A or meeting the completion dates in Attachment A;
 - d. Any claim of *Force Majeure* in connection with the tasks described on Attachment A;
 - e. Any change in operations at the Facility that has had or will have any impact on the tasks described on Attachment A.
38. No later than sixty (60) days after completion of all of the tasks set forth in Attachment A, Respondent will submit a Final Report to EPA, addressed to the persons listed in Paragraph 36, above.
39. The Final Report shall document the following:
- a. That each task identified in Attachment A has been completed as described therein and in accordance with the requirements of the Final Order or as modified pursuant to agreement with EPA.
 - b. That the structures and equipment described in the tasks in Attachment A are in operation and are capable of performing the tasks for which they were designed;
 - c. That each task is being implemented in accordance with all applicable requirements of RCRA.

40. A determination of compliance with the conditions set forth herein will be based upon, inter alia, records and reports submitted by Respondent to EPA under this CA/FO, any inspections of work performed under the Final Order and the Final Report identified in Paragraphs 38 and 39, above. Respondent is aware that the submission of false or misleading information to the United States government may subject it to separate civil and/or criminal liability.
41. Within ninety (90) days of receipt of the written Final Report identified in Paragraphs 38 and 39 above, EPA will provide written notification to the Respondent of one of the following:
- a. If the Final Report is deficient, notify the Respondent in writing that the Final Report is deficient, provide an explanation of the deficiencies, and grant Respondent an additional thirty (30) calendar days to correct those deficiencies;
 - b. If the Final Report demonstrates that the tasks listed in Attachment A have been completed in accordance with the terms of this CA/FO, EPA will notify Respondent in writing that EPA has concluded that the Final Report has been accepted.

IV. FORCE MAJEURE

42. "Force majeure," for purposes of this Final Order, is defined as any event arising from causes beyond the control of Respondent, of any entity controlled by Respondent, or of Respondent's contractors that delays or prevents the performance of any obligation under this Final Order despite Respondent's best efforts to fulfill the obligation. The requirement that Respondent exercise "best efforts to fulfill such obligation" includes using best efforts to anticipate any potential force majeure and best efforts to address the effects of any potential force majeure (a) as it is occurring and (b) following the potential force majeure such that the delay and any adverse effects of the delay are minimized to the greatest extent possible. "Force majeure" does not include financial inability to complete the tasks.
43. If any event occurs or has occurred that may delay the performance of any obligation under this Final Order for which Respondent intends or may intend to assert a claim of force majeure, Respondent shall notify EPA of when Respondent first knew that the event might cause a delay. Within seven days thereafter, Respondent shall provide in writing to EPA an explanation of the reasons for the delay; the anticipated duration of the delay; all actions taken or to be taken to prevent or minimize the delay; a schedule for implementation of any measures to be taken to prevent or mitigate the delay or the effect of the delay; Respondent's rationale for attributing such delay to a force majeure; and a statement as to whether, in the opinion of Respondent, such event may cause or contribute to an endangerment to public health or welfare, or the environment.

Respondent shall include with any notice available documentation supporting its claim that the delay was attributable to a force majeure. Respondent shall be deemed to know of any circumstance of which Respondent, any entity controlled by Respondent, or Respondent's contractors knew or should have known. Failure to comply with the above requirements regarding an event shall preclude Respondent from asserting any claim of force majeure regarding that event, provided, however, that if EPA, despite the late or incomplete notice, is able to assess to its satisfaction whether the event is a force majeure under Paragraph 42 and whether Respondent has exercised its best efforts under Paragraph 42, EPA may, in its unreviewable discretion, excuse in writing Respondent's failure to submit timely notices under this Paragraph.

If EPA agrees that the delay or anticipated delay is attributable to a force majeure, EPA will notify Respondent in writing of the length of the extension, if any, for performance of the obligations affected by the force majeure. An extension of the time for performance of the obligations affected by the force majeure shall not, of itself, extend the time for performance of any other obligation.

44. In the event that EPA does not agree that the delay or anticipated delay is attributable to a force majeure, EPA will notify Respondent in writing of its rejection of Respondent's claim of force majeure and any delays in the completion of the Final Order tasks set forth in Attachment A shall not be excused.
45. Respondent may appeal EPA's rejection of Respondent's claim of force majeure to the EPA Region III Deputy Regional Administrator. Respondent's appeal must be made in writing and within ten days of Respondent's receipt of EPA's written notice denying Respondent's force majeure claim. The EPA Region III Deputy Regional Administrator's determination will constitute EPA's final determination.
46. If EPA makes a final determination rejecting Respondent's force majeure claim, EPA may seek to enforce the Final Order in accordance with Paragraphs 34 and 48 of this CA/FO. Respondent reserves its rights and defenses to EPA's final determination.

V. EFFECT OF SETTLEMENT, RESERVATION OF RIGHTS

47. This CA/FO is not intended to be nor shall it be construed to be a permit. Further, the parties acknowledge and agree that EPA's approval of this Final Order does not constitute a warrant or representation that requirements provided hereunder will meet the requirements of RCRA. Compliance by Respondent of the terms of this Final Order shall not relieve Respondent of its obligations to comply with RCRA, or any other applicable local, State or federal laws and regulations.

48. Notwithstanding any other provision of this CA/FO, EPA reserves the right to enforce the terms of this Final Order portion of this CA/FO by initiating a judicial or administrative action under Section 3008 of RCRA, 42 U.S.C. § 6928, and to seek penalties against Respondent pursuant to 3008(c) of RCRA for each day of non-compliance with the terms of the CA/FO, or to seek any other remedy allowed by law.
49. Complainant reserves the right to take enforcement action against Respondent for any future violations of RCRA and its implementing regulations to enforce the terms of this CA/FO.
50. In any subsequent administrative or judicial proceeding initiated by EPA or the United States for injunctive relief or other appropriate relief relating to the allegations in Paragraphs 31, 32, and 33 of this CA/FO, Respondent shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim-splitting, or other defenses based on any contention that the claims raised by EPA or the United States on the subsequent proceeding were or should have been raised in the present matter.
51. EPA does not, by entering in to the Final Order, assume any liability for any acts or omissions by Respondent or its employees, agents, contractors or consultants engaged to carry out any action or activity pursuant to this Consent Agreement and Final Order. Nor shall EPA be held as a party to any contract entered into by Respondent or its employees, agents, contractors or consultants.

VI. PARTIES BOUND

52. This Final Order shall apply to and be binding upon the EPA, the Respondent, Respondent's officers and directors (in their official capacity) and Respondent's successors and assigns. By his or her signature below, the person signing this Final Order on behalf of Respondent acknowledges that he or she is fully authorized to enter into this Final Order and to bind the Respondent to the terms and conditions of this Final Order and the accompanying Final Order.

VII. TERMINATION

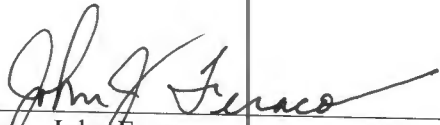
53. The provisions of this CA/FO shall be deemed satisfied upon a written determination by EPA that Respondent has fully implemented the actions required in the Final Order. Such written determination shall be of the same form and substance as the Draft Termination of Final Order Letter set forth in Attachment B of this CA/FO, which is appended hereto and incorporated herein.

IMO Nova Chemicals Inc.
RCRA-03-2017-0165

For Respondent, Nova Chemicals Inc.

Date: 8/10/2017

By:


Name: John Feraco
Title : Director, Expandable Styrenics

IMO Nova Chemicals Inc.
RCRA-03-2017-0165

For EPA, United States Environmental Protection Agency, Region III:

Date: _____

By:

Joyce A. Howell
Senior Assistant Regional Counsel

After reviewing the foregoing Consent Agreement and Final Order and other pertinent information, the Director, Land and Chemicals Division, EPA Region III, recommends that the Regional Administrator or the Regional Judicial Officer issue the Final Order attached hereto.

Date

By:

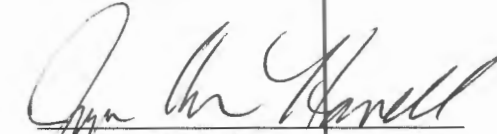
Catherine A. Libertz
Acting Director
Land and Chemicals Division

IMO Nova Chemicals Inc.
RCRA-03-2017-0165

For EPA, United States Environmental Protection Agency, Region III:

Date: Aug 16, 2017

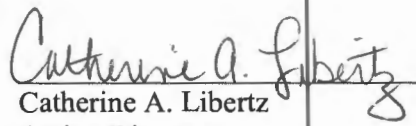
By:


Joyce A. Howell
Senior Assistant Regional Counsel

After reviewing the foregoing Consent Agreement and Final Order and other pertinent information, the Director, Land and Chemicals Division, EPA Region III, recommends that the Regional Administrator or the Regional Judicial Officer issue the Final Order attached hereto.

8-24-17
Date

By:


Catherine A. Libertz
Acting Director
Land and Chemicals Division

IMO Nova Chemicals Inc.
RCRA-03-2017-0165

IT IS SO ORDERED. This Final Order shall become effective immediately.

Aug 30, 2017
Date



Joseph J. Lisa
Regional Judicial Officer

ATTACHMENT A – Work to be Performed

Pursuant to Paragraph 35 of this Consent Agreement and Final Order (“CA/FO”), Respondent agrees to perform the work identified on this Attachment A in accordance with the terms of this CA/FO and the Schedule presented for each item.

Item 1: Lime Slurry Tank Secondary Containment Upgrade

Task: NOVA shall design and construct a secondary containment system for the existing Lime Slurry Tank. The secondary containment system will consist of a concrete berm designed to hold 110% of the contents of the Lime Slurry Tank in the event of a rupture or other failure as well as 6” of rainwater. A concrete sump will be constructed as a low spot for collection and to facilitate safe removal of any spilled material.

Schedule: This task is to be completed by *December 31, 2018*.

Item 2: Deionization Unit Effluent Control

Task: NOVA shall design and install a neutralization system for the existing Deionization Unit that will add a large tank or tanks designed to meet the regeneration volumes to neutralize Deionization Unit regeneration wastewaters from the ion exchange beds through mixing. The neutralized flows will then be fed back to the wastewater treatment system in a manner that will eliminate significant fluctuations in the pH of the water streams from the Deionization Unit entering the Mix Pit. The new neutralization tank will meet the definition of the term “Tank” as defined in 40 CFR §260.10 and meet all other applicable ASME and NOVA engineering standards.

Schedule: This task is to be completed by *December 31, 2018*.

Item 3: D3 Sump Upgrades

Task: NOVA will refurbish and upgrade the D3 Sump to provide greater protection to the wastewater treatment system from potential releases of ignitable materials. NOVA shall replace the current wooden plank weirs with weirs of improved design and more substantial materials of construction such as steel or reinforced composite to best meet the service requirements, install lifting eyes to facilitate sump cleaning, install a new discharge structure to enable the final section of the sump to better retain any ignitable materials for removal; and install detection instrumentation in the downstream section of the D3 Sump.

Schedule: This task is to be completed by *March 1, 2019*.

ATTACHMENT B – Draft Termination of Final Order Letter



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

DRAFT*****DRAFT*****DRAFT*****

Future date 2019

Dean Calland, Esq.
Babst Calland
Two Gateway Center
603 Stanwix Street
Sixth Floor
Pittsburgh, PA 15222

Bryan Stanslowski
Responsible Care Specialist – Beaver Valley
NOVA Chemicals Inc.
400 Frankfort Road
Monaca, PA 15061

IMO Nova Chemicals Inc.
RCRA-03-2017-0165
Termination of Final Order

Dear Mr. Calland and Mr. Stanslowski:

As provided by Paragraph 53 of the Consent Agreement and Final Order entered in this matter, EPA has received notice from you on behalf of your client, Nova Chemicals Inc., that it has fully implemented the actions required in the Final Order.

Based on the representations and documentation submitted by your client in its Final Report submitted under Paragraphs 38 and 39 of the Consent Agreement and Final Order entered in this matter, EPA has determined that Nova Chemicals Inc. has fully and finally satisfied EPA's claims and Nova Chemicals' obligations for the violations alleged in the CA/FO arising out of the October 17, 2012 upset of Nova Chemicals' reactors at its Monaca, Pennsylvania facility.

Sincerely,

Catherine A. Libertz
Acting Director
Land and Chemicals Division

cc: Joyce Howell (3RC30)
Martin Matlin (3LC32)

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**BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III**

In the Matter of:

Nova Chemicals, Inc.,

Respondent.

Nova Chemicals, Inc.
400 Frankfurt Road
Monaca, Pennsylvania, 15061
EPA ID Number PAR000023986,

Facility.

EPA Docket No. RCRA-03-2017-0165

Proceeding under Section 3008(a)
of the Resource Conservation and
Recovery Act, as amended, 42 U.S.C.
Section 6928(a)

RECEIVED
2017 AUG 30 PM 3:11
CLERK
PHILADELPHIA, PA

CERTIFICATE OF SERVICE

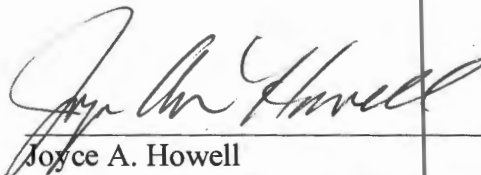
I certify that I sent a copy of the Consent Agreement and Final Order to the addressee listed below. The original and one copy of the Complaint were hand-delivered to the Regional Hearing Clerk, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103-2029.

Via UPS, next day delivery to:

Dean Calland, Esq.
Babst Calland
Two Gateway Center
Pittsburgh, PA 15222

Dated

Aug. 30, 2017



Joyce A. Howell
Senior Assistant Regional Counsel
U.S. EPA - Region III