



Environmental
Protection Agency

Division of Materials and Waste Management

Response to Comments

**Project: Solvay Advanced Polymers, L.L.C. Ohio Hazardous Waste Facility
Installation and Operation Permit Renewal**

Ohio EPA ID #: 04-84-0194

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Ohio EPA held a public hearing on July 14, 2011 regarding Solvay Advanced Polymers' draft hazardous waste renewal permit. This document summarizes the comments and questions received during the associated comment period, which ended on July 29, 2011.

Ohio EPA reviewed and considered all comments received during the public comment period. By law, Ohio EPA has authority to consider specific issues related to protection of the environment and public health. Often, public concerns fall outside the scope of that authority. Ohio EPA may respond to those concerns in this document by identifying another government agency with more direct authority over the issue.

In an effort to help you review this document, the questions are grouped by topic and organized in a consistent format.

Permit Title Page

Please note: In the Authorized Activities portion of the permit title page a typographical error was discovered; therefore the word "mailer" was changed to "matter".

Module A. General Permit Conditions

Please note: Due to the recent merger between the Division of Hazardous Waste Management and the Division of Solid and Infectious Waste Management into the Division of Materials and Waste Management; Ohio EPA has changed the name of the unit responsible for receiving cost estimates in Condition A.27(a)(i)

from Compliance Monitoring and Enforcement Section to Financial Assurance and Remediation Unit to reflect recent name changes.

Comment 1: Typo in A.27(a)., should be “journalization”.

Response 1: The typographical error was corrected.

Comment 2: Typo in A.27(a)., “iv” should be “ii”.

Response 2: The typographical error was corrected.

Comment 3: Typo in A.28(a)., list of documents should be renumbered.

Response 3: The typographical error was corrected.

Comment 4: Ohio EPA should remove the phrase “and the terms and conditions of this permit” from A.28(a). The phrase is redundant and may cause future conflicts with OAC Rules 3745-55-42 and 3745-55-44.

Response 4: The terms and conditions of the permit at times provide more details than are found in the OAC Rules named in the permit. Therefore, Ohio EPA does not agree that it is redundant to include the phrase “and the terms and conditions of this permit” in A.28.(a). We are unsure from the comment what future conflicts the phrase could cause. No changes to the permit were made based on this comment.

Module B. General Facility Conditions

Comment 5: The requirement in B.3(c) that the “Permittee must verify the analysis of each waste stream annually as part of its quality assurance program” goes beyond the requirements of 3745-54-13(A). This rule only requires that the “analysis must be repeated as necessary to ensure that it is accurate and up to date. At a minimum, the analysis must be repeated: (a) when the owner or operator is notified, or has reason to believe, that the process or operations generating the hazardous waste, or non-hazardous waste if applicable under paragraph (D) of rule 3745-55-13 of the Administrative Code has changed...” In fact, this rule allows use of generator knowledge in lieu of requiring annual laboratory analysis, which is consistent with the previous permit.

Solvay proposes the alternative language for B.3.(c):

“The permittee must annually review each waste stream and determine if there is reason to believe that the process or operations generating the hazardous wastes, or non-hazardous waste has changed. If the Permittee determines the process or operation generating a waste has changed, the permittee must verify the analysis of the waste stream as part of its quality assurance program, in accordance with Test Methods for Evaluating Solid Waste: Physical/Chemical Methods, EPA Publication SW-846, or equivalent methods approved by the Director. At a minimum, the Permittee must maintain proper functional instruments, use approved sampling and analytical methods, verify the validity of sampling and analytical procedures, and perform correct calculations. If the Permittee uses a contract laboratory to perform analyses, then the Permittee must inform the laboratory in writing that it must operate under the waste analysis conditions set forth in this permit.”

- Response 5: Ohio EPA agrees that the alternative language proposed by Solvay meets the requirements of OAC Rule 3745-54-13(A). The permit condition has been changed accordingly.
- Comment 6: Ohio EPA should clarify the requirement in B.13. to “make arrangements”. How does “make arrangements” differ from the previous permit requirement to “inform such agencies”?
- Response 6: The previous permit had a requirement B.13.(a)(ii) to “inform such agencies” of safety equipment, supplies, and proper emergency safety procedures applicable to the facility, and any further requirements related to the emergency response imposed by the terms and conditions of this permit. The renewal permit does not have a requirement to “make arrangements” or to “inform such agencies” of safety equipment, supplies, and proper emergency safety procedures applicable to the facility, and any further requirements related to the emergency response imposed by the terms and conditions of this permit. The renewal permit has not changed the requirement from “inform” to “make arrangements” but has eliminated the requirement to “inform” on the items named because this was not specifically required by OAC Rule 3745-54-37.

Section B.13.(a)(i) of the previous permit had the wording “familiarize” and the draft permit was worded “make

arrangements and familiarize” while OAC Rule 3745-54-37 requires “arrangements to familiarize.” To add clarity in the final permit “and” was changed to “to.”

Module C. Container Storage

Comment 7: Typo in C.1.(c) should reference “C.3” and not “C.2”

Response 7: This was not a typographical error. The correct reference is “C.2”. In Solvay’s permit, section C.2 is not applicable and is therefore designated as “reserved.” Since it is confusing to reference a reserved section, C.1.(c) was revised to only reference “C.1.(a)” and not “C.2.”

Module D. Corrective Action Requirements

Comment 8: Ohio EPA should consider adding the following to the third paragraph of the Correction Action Summary: “At this time the corrective action requirements for the remaining CAMU (i.e. the wastewater treatment facility) were completed.”

Response 8: The suggested text adds clarity to the permit. Therefore the Corrective Action Summary has been changed as suggested.

Comment 9: Ohio EPA should consider moving D.5. “RCRA Facility Investigation (RFI)” to follow Condition D.7. “Determination of No Further Action”.

Response 9: Ohio EPA follows a standard format for all hazardous waste permits. Without more definitive information on how such a change would benefit this permit, Ohio EPA prefers to remain consistent with the standard format. No changes to the permit were made based on this comment.

Comment 10: The following text “discovered after the effective date of this permit as identified in Permit Condition D.10” should be inserted into the first sentence of D.5. This will avoid confusion because the RFI for the wastewater treatment facility has already been completed and approved by Ohio EPA as stated in the introduction of this module.

Response 10: The draft permit clearly states that any newly discovered WMU would require an RFI Workplan to be submitted to Ohio EPA. Ohio EPA does not feel that the suggested text would provide any additional clarity to the permit condition.

No changes to the permit were made based on this comment.

Comment 11: Ohio EPA should consider changing the first sentence in D.5(c) to the following: "Within 90 days of receipt and validation of all RFI laboratory data, the Permittee must submit an RFI Final Report to Ohio EPA".

Response 11: The draft permit allowed 60 days to submit a final RFI. The request for an additional 30 days to submit the final RFI is reasonable considering the complexity that can be involved in an RFI. The final permit was modified to increase the time for submittal from 60 days to 90 days. The suggestion to add the text "of receipt and validation of all RFI laboratory data" was not taken because it would not allow the permit to control the amount of time taken to receive and validate the data. This would leave the time allowed for submittal open ended.

Comment 12: Ohio EPA should consider moving this condition so it follows Condition D.4. "No Corrective Action Required at this Time."

Response 12: Ohio EPA follows a standard format for all hazardous waste permits. Without more definitive information on how such a change would benefit this permit, Ohio EPA prefers to remain consistent with the standard format. No changes to the permit were made based on this comment.

Comment 13: Ohio EPA should clarify the reasoning behind Condition D.7(a) and what are the expectations for scope and content of the permit modification.

Response 13: Without knowing what WMUs might be identified in the future, defining the more specific expectations for scope and content of the permit modification cannot be generalized in the permit conditions. Ohio EPA encourages the Permittee to have an open discussion with the Agency, if such a situation arises, to clarify in the specific situation what would be needed to "conclusively demonstrate that there are no releases of hazardous waste or constituents from WMUs at the Facility that pose an unacceptable risk to human health and the environment." No changes to the permit were made based on the comment.

Comment 14: Ohio EPA should consider changing the first sentence in D.8. to "If Ohio EPA determines, based on the results of the

RFI completed in accordance with Permit Condition D.5. and any other relevant information, that corrective measures are necessary, Ohio EPA will notify the Permittee in writing that the Permittee must conduct a CMS either as described below or as described in Ohio EPA's notification to the Permittee."

- Response 14: Ohio EPA does not feel that the additional text would add any additional clarity to the permit condition. No changes to the permit were made based on this comment.
- Comment 15: Ohio EPA should consider changing the time period in D.9(c) after completion for the CMS for the Permittee to submit a CMS Final Report from 60 days to 90 days.
- Response 15: The permit does not have a section "D.9.(c)." Section D.8.(c) addresses submission of the CMS Final Report. The request for an additional 30 days is reasonable. Therefore the permit condition was changed from 60 days to 90 days.
- Comment 16: Ohio EPA should consider moving Conditions D.10 and D.11. so that these conditions are immediately before Condition D.5 RCRA Facility Investigation (RFI).
- Response 16: Ohio EPA follows a standard format for all hazardous waste permits. Without more definitive information on how such a change would benefit this permit, Ohio EPA prefers to remain consistent with the standard format. No changes to the permit were made based on this comment.
- Comment 17: Typo in D.10., last item should be numbered "v"
- Response 17: The typographical error was corrected.
- Comment 18: Ohio EPA should consider revising the first sentence of D.12 as follows: "After completing Corrective Action as necessary to protect human health and the environment for all releases of hazardous wastes or hazardous constituents from any WMUs at the facility, *discovered after the effective date of this permit as identified in Permit Condition D.10*, the Permittee shall submit a Corrective Measure Action Completion of Work CMCW Report."
- Response 18: Ohio EPA does not feel that the suggested text would provide any additional clarity to the permit condition. No changes to the permit were made based on this comment.

Module E Surface Impoundments

Comment 19: Typo in E.4(a), the period after “in” should be deleted.

Response 19: The typographical error was corrected.

Module F Ground Water Compliance Monitoring

Comment 20: Ohio EPA should note in F.2(a) that other off-site and historical sources unrelated to the wastewater treatment facility operations and the regulated units may be sources of hazardous constituents (e.g. chlorobenzene from UCC operations).

Response 20: The possibility that a source other than a regulated unit may have caused contamination is already addressed in F.10.(c). No change was made in the permit condition.

Comment 21: Ohio EPA should indicate in F.2(b) that the current compliance monitoring network is acceptable.

Response 21: The permit already indicates the compliance monitoring network is acceptable by naming the wells that must be monitored in F.2.(b). No change was made in the permit condition.

Comment 22: Ohio EPA should indicate if the statistical procedure in the Compliance Monitoring Plan (Appendix E-1 of the permit application) is acceptable. If so, Ohio EPA should consider adding language stating that the statistical procedure meets the requirements of OAC rules 3745-54-97 (H) and (I) and this permit condition.

Response 22: Ohio EPA believes that Solvay should evaluate the statistical procedure in the Compliance Monitoring Plan against U.S. EPA’s *Statistical Analysis of Groundwater Monitoring Data at RCRA Facilities Unified Guidance March 2009* (EPA 530-R-007). Therefore no change was made to the permit.

Comment 23: Ohio EPA should indicate in F.8(a) the time frame when the information should be entered into the operating record. Alternatively, since most if not all of the information is provided in the annual report, the information should be added annually by making the Annual Report part of the Operating Record.

- Response 23: OAC Rule 3745-54-73(B) states that the information must be recorded as it becomes available. Therefore the text “as it becomes available” was added to the permit in F.8.(a).
- Comment 24: Ohio EPA should clarify the reference to F.10(a)(v) in Condition F.10(a)(vi).
- Response 24: After further review it appears that the reference to F.10(a)(v) is a typographical error and should be replaced by F.10(a)(iv). Also, to clarify the reference the following text was added to the permit: “Appendix E-1 of the Permit Application as required by Permit Condition F.10(a)(iv)”.
- Comment 25: Ohio EPA should clarify the term “enhanced sampling” in F.10(a)(vi).
- Response 25: “Enhanced sampling” is a term used in OAC Rule 3745-54-99(G) to describe a sampling event for all constituents from the Appendix to OAC Rule 3745-54-98. The permit was revised accordingly.
- Comment 26: Ohio EPA should consider revising the second paragraph of F.10(a)(vi) as follows: “if this sampling event indicates that constituents from Appendix to OAC Rule 3745-54-98 are in the groundwater that are not already identified in Permit Condition F.2.(a), the Permittee may resample within one month *of receiving and validating the analytical data* and repeat the analysis. If the second analysis confirms the concentrations of these additional constituents, the Permittee must report the concentration of these additional constituents to the Director within *twenty-one (21) days* after the completion of the second analysis *and completing data validation* and add them to the monitoring list in Permit Condition F.2(a). If the Permittee chooses not to resample, then the concentrations of these additional constituents must be reported to the Director within *twenty-one (21) days* after completion of the initial analysis *and completing data validation* and added to the monitoring list in Permit Condition F.2(a)”
- Response 26: Solvay has suggested revising the permit to make resampling and analysis reporting time contingent on “receiving and validating” the data. Ohio EPA recognizes that the time it takes to receive and validate data is a factor, however, the suggested revision makes the time allowed open ended. OAC Rule 3745-54-99(G) allows an alternative

site-specific schedule to be set by the director for the resampling. Recognizing that the intent of Solvay's request is to allow more time for data receipt and validation, the permit has been revised to allow resampling within 60 days. The seven day time frame for reporting to the director is specified by OAC Rule 3745-54-99(G) and therefore cannot be revised to 21 days as suggested.

Comment 27: Ohio EPA should consider replacing "determined" in F.10.(b) with "made a statistical determination" in order to be consistent with the requirements of Condition F.7.

Response 27: The suggested change is consistent with OAC Rule 3745-54-99 as well as Condition F.7. Therefore, the permit was changed as suggested.

Module G – Post Closure Care

Comment 28: Ohio EPA should change the time frame for submitting a Closure Plan Addendum from 30 days to 60 days.

Response 28: An additional 30 days to submit such a detailed document is a reasonable request. The permit was modified to allow 60 days for the submittal of the Closure Plan Addendum.

End of Response to Comments