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west virginia department of environmental protection

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Division of Air Quality  
601 57<sup>th</sup> Street, SE  
Charleston, WV 25304  
(304) 926-0475

Harold D. Ward, Cabinet Secretary  
dep.wv.gov

**CEASE AND DESIST ORDER**

**ISSUED UNDER THE  
AIR POLLUTION CONTROL ACT  
WEST VIRGINIA CODE, CHAPTER 22, ARTICLE 5, SECTION 5**

**ISSUED TO:** GlyEco West Virginia, Inc.  
P.O. Box 387  
Institute, WV 25112  
Certified Mail #: 9489 0090 0027 6402 5991 17

GlyEco West Virginia, Inc.  
1620 1<sup>st</sup> Ave. S.  
Building 180  
Nitro, WV 25143  
Certified Mail #: 9489 0090 0027 6402 5991 24

Corporate Creations Network Inc.  
126 East Burke Street  
Martinsburg, WV 25401  
Certified Mail #: 9489 0090 0027 6402 5991 31

**FACILITY ID NO.:** 039-00675

**DATE ISSUED:** September 8, 2022

**I. FINDINGS OF FACT**

In support of this Order, the Director hereby finds the following:

1. GlyEco West Virginia, Inc. (“Company”) operates a glycol recovery plant, the Institute Plant (“Facility”), located at Institute, West Virginia.

2. The Facility is a regulated source of air pollutants that operates in adherence to permits R13-1127 and R13-1215, issued pursuant to WV Legislative Rule 45 CSR 13 (“Rule 13”), "Permits for Construction, Modification, Relocation and Operation of Stationary Sources of Air Pollutants, Notification Requirements, Administrative Updates, Temporary Permits, General Permits, Permission to Commence Construction, and Procedures for Evaluation”.
3. The Facility operates in adherence to Title V permit R30-03900675-2017, issued pursuant to WV Legislative Rule 45 CSR 30 (“Rule 30”), "Requirements for Operating Permits.”
4. A Title V permit renewal is issued for a five (5) year period. In accordance with Rule 30, subsection 4.1.a.3, a permit renewal application is timely if it is submitted at least six (6) months prior to the date of permit expiration. The Facility submitted a timely and complete renewal for their Title V permit on July 21, 2021.
5. During the Title V permit renewal process, personnel from the Division of Air Quality (“DAQ”) made attempts to contact the Company’s responsible official, Mr. Richard Geib. Mr. Geib signed the Title V permit renewal application and was the only company contact listed in the application. However, the email address for Mr. Geib included in the application was undeliverable and phone messages to Mr. Geib were not returned. Regardless, the Title V permit renewal for R30-03900675-2022 went to draft/proposed on June 1, 2022. The email notification of draft/proposed status sent to Mr. Geib was again undeliverable.
6. The Facility is required under Rule 30, subsection 5.3.e, and condition 3.5.5 of Title V permit R30-03900675-2017, to certify compliance with the conditions of their Title V permit on the forms provided by the DAQ. The annual compliance certification must be submitted on or before March 15 of each year and must certify compliance for the period ending December 31.
7. The Facility did not submit the annual compliance certification for the period of January 1, 2021, through December 31, 2021.
8. The Facility was required to submit their emissions from calendar year 2021 in the State & Local Emission Inventory System (“SLEIS”) by March 31, 2022. The Facility did not submit their emissions in SLEIS.
9. The Facility is required under Rule 30, subsection 8.7, and condition 3.5.4 of Title V permit R30-03900675-2017, to submit a certified emissions statement and pay fees on an annual basis in accordance with the submittal requirements of the DAQ. The annual certified emissions statement and fees are due by July 31<sup>st</sup> each year.
10. Emissions reported in SLEIS are used to determine a Title V source’s annual operating fee, but since the Facility did not report their emissions, the Facility was sent a blank Certified Emissions Statement Invoice with the minimum fee of five thousand dollars (\$5,000), due payable by July 31, 2022. If the Facility’s emissions for calendar year 2021 were such that the calculated fee based on total tons of billable emissions multiplied by \$55.62/ton is higher than \$5,000, the Facility is required to pay the higher amount.

11. The Certified Emissions Statement Invoice was mailed to the Facility on July 1, 2022, at the address of P.O. Box 387, Institute, WV 25112 but it was returned to sender. A second attempt was made, and the Certified Emissions Statement Invoice was mailed to the Facility at the address of 1620 1<sup>st</sup> Ave. S., Nitro, WV 25143. It was also returned to sender. The DAQ has no other addresses listed for the Facility, so additional attempts were not made.
12. As of September 8<sup>th</sup>, 2022, the Facility has not submitted a certified emissions statement and is delinquent in fees totaling a minimum of five thousand dollars (\$5,000.00) plus penalties.
13. GlyEco, West Virginia, Inc. has filed Chapter 7 bankruptcy. According to the Company's website ([www.glyeco.com](http://www.glyeco.com)), in January 2020, GlyEco filed 8-K announcing a strict foreclosure by its secured lender. Subsequently, GlyEco was locked out of the West Virginia plant by the landlord. The Facility has completely suspended operations and is in the process of closure. The Facility will not be re-opened.
14. DAQ personnel conducted a compliance inspection at the Facility on January 3, 2020. That inspection confirmed the Facility was permanently shut down in early December 2019.

## **II. APPLICABLE LAW**

1. West Virginia Code § 22-5-3 makes it unlawful for any person to (a) cause statutory air pollution; (b) violate any provision of the Air Pollution Control Act; (c) violate any rule promulgated pursuant to the Air Pollution Control Act; or (d) operate any facility subject to the permit requirements of the Secretary of the Department of Environmental Protection without a valid permit.
2. West Virginia Code § 22-5-5 states:

“If, after any investigation made by the director, or from any complaint filed with him or her, the director is of the opinion that a permit holder is violating the provisions of this article, or any rules promulgated pursuant thereto, or any order of the director, or any provision of a permit, the director may issue notice of intent to suspend, modify or revoke and reissue such permit. Upon notice of the director's intent to suspend, modify or revoke a permit, the permit holder may request a conference with the director to show cause why the permit should not be suspended, modified or revoked. The request for conference must be received by the director within fifteen days following receipt of notice. After conference or fifteen days after issuance of notice of intent, if no conference is requested, the director may enter an order suspending, modifying or revoking the permit and send notice to the permit holder. Such order is a cease and desist order for purposes of administrative and judicial review and shall contain findings of fact upon which the director determined to make and enter the order. If an appeal

of the director’s order is filed, the order of the director shall be stayed from the date of issuance pending a final decision of the board.”

3. West Virginia Legislative Rule 45 CSR 30, subsection 3.1.a states:

“On and after the effective date of the operating permit program, no person shall violate any requirement of a permit issued under this rule nor shall any person operate any of the following sources, except in compliance with a permit issued under section 6:”

4. West Virginia Legislative Rule 45 CSR 30, subsections 5.1.c.3, 5.1.c.3.A and 5.1.c.3.B state:

“5.1.c.3. With respect to reporting, the permit shall incorporate all applicable reporting requirements and require the following:

5.1.c.3.A. Submittal of reports of any required monitoring at least every six (6) months, but no more often than once per month. All instances of deviations from permit requirements must be clearly identified in such reports. All required reports must be certified by a responsible official consistent with subsection 4.4. To the extent practicable, the schedule for submission of such reports shall be timed to coincide with other periodic reports required by the permit, including the permittees’ compliance certifications.

5.1.c.3.B. Reporting of deviations from permit requirements, including those attributable to upset conditions as defined in the permit, the probable cause of such deviations, and any corrective actions or preventive measures taken in accordance with any rules of the West Virginia Department of Environmental Protection.”

5. West Virginia Legislative Rule 45 CSR 30, subsection 5.1.f.1 states:

“The permittee must comply with all conditions of the Title V operating permit. Any permit noncompliance constitutes a violation of the Code of West Virginia and Clean Air Act and is grounds for enforcement action by the Secretary or U.S. EPA; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.”

6. West Virginia Legislative Rule 45 CSR 30, subsection 8.1.b states:

“Title V operating permit fees. -- On July 1 of each year thereafter annual fees for all stationary sources requiring Title V operating permits shall be twenty-eight (28) dollars per ton subject to an adjustment enumerated in subdivision 8.1.c, for actual emissions of all regulated

pollutants (for fee calculation) discharged during the most recent calendar year or portion thereof.”

7. West Virginia Legislative Rule 45 CSR 30, subsections 8.7.a and 8.7.c. states:

“Fees will be based upon a certified emissions statement from a responsible official. The certified emissions statement shall contain an accurate accounting of the actual emissions of all regulated air pollutants and all regulated pollutants (for fee calculation) from the source as defined in subsections 2.33 and 2.34 for the most recent calendar year. Fees and certified emission statements shall be due on July 1, 1994 and on July 1 of each year thereafter.”

8. West Virginia Legislative Rule 45 CSR 30, section 11 states:

“The Secretary may suspend, modify, or revoke and reissue a Title V operating permit in accordance with the provisions contained in W.Va. Code §22-5-5.”

9. West Virginia Legislative Rule 45 CSR 13, subsection 5.1 states:

“No person shall cause, suffer, allow or permit the construction, modification, relocation and operation of any stationary source to be commenced without notifying the Secretary of such intent and obtaining a permit to construct, modify, relocate and operate the stationary source as required in this rule and any other applicable rule promulgated by the Secretary.”

### **III. CONCLUSIONS OF LAW**

1. The Company violated West Virginia Code §22-5-3 and WV Legislative Rule 45 CSR 30 by:
- i. Failing to submit a certified emissions statement for 2022, reporting calendar year 2021 emissions;
  - ii. Failing to pay Title V operating permit fees for 2022; and
  - iii. Failing to submit an annual compliance certification for 2021.

### **IV. ORDER**

It is hereby ORDERED that GlyEco West Virginia, Inc. shall:

1. Effective September 15, 2022, cease all production operations at the Facility.

2. Effective September 15, 2022:
  - i. Permits R13-1127, R13-1215, and Title V permit R30-03900675-2017 shall be revoked;
  - ii. Title V permit R30-03900675-2022 shall be denied;
  - iii. Operation of any process or equipment regulated by permits R13-1127 and R13-1215 shall be a violation of Rule 13, subsection 5.1; and
  - iv. Operation of any process or equipment regulated by Title V permit R30-03900675-2017 shall be a violation of Rule 30, subsection 3.1.a.

#### **V. APPEAL**

Pursuant to West Virginia Code §§ 22-5-5 and 22B-1-7, this Order may be appealed to the West Virginia Air Quality Board. Any appeal must be filed with the Board within thirty (30) days after the receipt of the Order. An appeal of this Order neither stays its provisions nor delays the obligation to comply. Forms are available from Clerk of the Boards by calling (304) 926-0445 or 1-866-568-6649 between 9 a.m. and 5 p.m., Monday through Friday.

#### **VI. COMPLIANCE**

Failure to timely comply with this Order may subject GlyEco West Virginia, Inc. to penalties, attorney's fees, and costs pursuant to West Virginia Code §§ 22-5-6 and -7.

This Order shall become September 15, 2022.

It is so ORDERED this 8<sup>th</sup> day of September, 2022.

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Laura M. Crowder  
Director