RECEIVED
DEC 06 2021
ENVIRONMENTAL ENFORCEMENT
Charleston

west virginia department of environmental protection

Division of Water and Waste Management
601 57th Street SE
Charleston, WV 25304
Phone: (304) 926-0470
Fax: (304) 926-0488

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

CONSENT ORDER
ISSUED UNDER THE
HAZARDOUS WASTE MANAGEMENT AND GROUNDWATER PROTECTION ACTS
WEST VIRGINIA CODE, CHAPTER 22, ARTICLES 12 AND 18

TO: Synectic Corporation
Mr. Harry K. Miller III, President
P.O. Box 611
Nitro, WV 25143-0611

DATE: September 27, 2021

ORDER NO.: MM-22-06

INTRODUCTION

This Consent Order is issued by the Director of the Division of Water and Waste Management (hereinafter "Director"), under the authority of West Virginia Code 22-18-1 et seq. and 22-12-1 et seq. to Synectic Corporation (hereinafter "Synectic").

FINDINGS OF FACT

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

1. Synectic operates a chemical manufacturing facility located in Saint Albans, Kanawha County, West Virginia and has been assigned EPA ID No. WVD988792842.

2. On April 28 and May 5, 2021, West Virginia Department of Environmental Protection (WVDEP) personnel conducted an inspection of the facility. During the inspection, violations of the following sections of Code of Federal Regulations, WV State Code, and WV Legislative Rules were observed and documented:

   a. 40CFR262.17(a)(5)(i)(A)- Synectic failed to label containers of hazardous waste with the words "Hazardous Waste." Specifically, four (4) fifty-five gallon drums and fifteen (15) containers of carbon disulfide on the storage pad had not been properly labeled.
   b. 40CFR262.17(a)(5)(i)(B)- Synectic failed to label containers of hazardous waste with an indication of the hazards of the contents. Specifically, four (4) fifty-five gallon

drums and fifteen (15) containers of carbon disulfide on the storage pad had not been properly labeled.

c. 40CFR262.17(a)(5)(i)(C)- Synectic failed to label containers of hazardous waste with an accumulation start date. Specifically, four (4) fifty-five gallon drums and fifteen (15) containers of carbon disulfide on the storage pad had not been properly labeled.
d. 40CFR262.17(a)(1)(vi)(A)- Synectic stored flammable waste within fifty (50) feet of the property line. Specifically, four (4) fifty-five gallon drums on the storage pad which did not have secondary containment were identified by Synectic's representative as containing flammable hazardous waste. The storage pad sloped to a grassy area near the fence line then to a culvert on the southwest corner of the property. There was an unidentified milky white substance in the culvert.
e. 40CFR262.17(a)(1)(ii)- Synectic stored hazardous waste in a container in poor condition. Specifically, one (1) of the fifty-five gallon drums on the storage pad was rusty.
f. 40CFR262.17(a)- Synectic stored hazardous waste greater than ninety (90) days without a permit. Synectic's representative stated that hazardous waste had not been shipped off-site for disposal for approximately two (2) years.
g. 22-18-8(a)- Synectic treated hazardous waste without a permit. Specifically, aluminum containers of carbon disulfide had been taken to the scrap yard for recycling, and the plastic lids had been placed in the dumpster.
h. 40CFR262.11- Synectic failed to perform hazardous waste determinations for fifteen (15) containers of carbon disulfide on the storage pad; for carbon from the hot tube reactor, floor sweepings, and waste filter paper in the production laboratory; for leaking/unlabeled containers in the production laboratory, in the storage building on the southwestern corner of the property, and in the shipping container on the southeastern corner of the property; and for samples/chemicals in the QA/QC lab.
i. 40CFR262.17(a)(1)(iv)(A)- Synectic failed to keep containers of hazardous waste closed unless adding or removing waste. Specifically, fifteen (15) containers of carbon disulfide on the storage pad had not been triple-rinsed and, therefore, had not been rendered empty. However, some of the containers did not have lids.
j. 40CFR279.22(c)(1)- Synectic failed to label a container of used oil in the storage building on the northern side of the property with the words "Used Oil." The container had been incorrectly labeled with the words "Waste Oil."
k. 40CFR262.251- Synectic failed to maintain and operate its facility to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment. Specifically, fire extinguishers in the production lab did not have inspection tags, Safety Data Sheets were not readily available in case of accident/fire, and unlabeled/leaking containers were present in several areas of the facility.
l. 47CSR58 Section 4.7.d- Synectic failed to store drums so that spills and leaks were contained. Specifically, containers on the storage pad and in the storage building on the northern side of the property did not have secondary containment.

As a result of the aforementioned violations, Notice of Violation (NOV) No. 2105-015 was issued to Synectic.

ORDER FOR COMPLIANCE

Now, therefore, in accordance with West Virginia State Code 22-18-1 et seq. and 22-12-1 et seq., it is hereby agreed between the parties, and ORDERED by the Director:

1. Synectic shall immediately take all measures to initiate compliance with all pertinent laws and rules.

2. Within thirty (30) days of the effective date of this Order, Synectic shall submit for approval a proposed plan of corrective action and schedule, outlining action items and completion dates for how and when Synectic will achieve compliance with all pertinent laws and rules. The plan of corrective action shall make reference to EPA ID No. WVD988792842 and Order No. MM-22-06. The plan of corrective action shall be submitted to:

   Chief Inspector
   Environmental Enforcement - Mail Code #031328
   WVDEP
   601 57th Street SE
   Charleston, WV 25304

   Upon approval, the plan of corrective action and schedule shall be incorporated into and become part of this Order, as if fully set forth herein. Failure to submit an approvable plan of corrective action and schedule or failure to adhere to the approved schedule is a violation of this Order.

3. Because of Synectic's Code of Federal Regulations and WV State Code violations, Synectic shall be assessed a civil administrative penalty of seventy-seven thousand one hundred eighty-five dollars ($77,185) to be paid to the West Virginia Department of Environmental Protection for deposit in the Hazardous Waste Management Fund within thirty (30) days of the effective date of this Order. Payments made pursuant to this paragraph are not tax-deductible for purposes of State or federal law. **Payment shall include a reference to the Order No. and shall be mailed to:**

   Chief Inspector
   Environmental Enforcement - Mail Code #031328
   WV-DEP
   601 57th Street SE
   Charleston, WV 25304

OTHER PROVISIONS

1. Synectic hereby waives its right to appeal this Order under the provisions of West Virginia State Code 22-18-20 and 22-12-11. Under this Order, Synectic agrees to take all actions required by the terms and conditions of this Order and consents to and will not contest the Director's jurisdiction regarding this Order. However, Synectic does not admit to any factual and legal determinations made by the Director and reserves all rights and defenses available regarding liability or responsibility in any proceedings regarding other than proceedings, administrative or civil, to enforce this Order.

2. The Director reserves the right to take further action if compliance with the terms and conditions of this Order does not adequately address the violations noted herein and reserves all rights and defenses which he may have pursuant to any legal authority, as well as the right to raise, as a basis for supporting such legal authority or defenses, facts other than those contained in the Findings of Fact.

3. If any event occurs which causes delay in the achievement of the requirements of this Order, Synectic shall have the burden of proving that the delay was caused by circumstances beyond its reasonable control which could not have been overcome by due diligence (i.e., force majeure). Force majeure shall not include delays caused or contributed to by the lack of sufficient funding. Within three (3) working days after Synectic becomes aware of such a delay, notification shall be provided to the Director/Chief Inspector and Synectic shall, within ten (10) working days of initial notification, submit a detailed written explanation of the anticipated length and cause of the delay, the measures taken and/or to be taken to prevent or minimize the delay, and a timetable by which Synectic intends to implement these measures. If the Director agrees that the delay has been or will be caused by circumstances beyond the reasonable control of Synectic (i.e., force majeure), the time for performance hereunder shall be extended for a period of time equal to the delay resulting from such circumstances. A force majeure amendment granted by the Director shall be considered a binding extension of this Order and of the requirements herein. The determination of the Director shall be final and not subject to appeal.

4. Compliance with the terms and conditions of this Order shall not in any way be construed as relieving Synectic of the obligation to comply with any applicable law, permit, other order, or any other requirement otherwise applicable. Violations of the terms and conditions of this Order may subject Synectic to additional penalties and injunctive relief in accordance with the applicable law.

5. The provisions of this Order are severable and should a court or board of competent jurisdiction declare any provisions to be invalid or unenforceable, all other provisions shall remain in full force and effect.

6. This Order is binding on Synectic, its successors and assigns.

7. This Order shall terminate upon Synectic's notification of full compliance with the "Order for Compliance" and verification of this notification by WVDEP.

Mr. Harry K. Miller III, President
Synectic Corporation

12-3-2021
Date

Public Notice begin:

Date

Public Notice end:

Date

Katheryn Emery, P.E., Acting Director
Division of Water and Waste Management

Date