



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

SUBJECT: Notification of Intent to Approve PCB Risk-Based Disposal plan
Nouryon, Inc. (former Akzo Nobel Chemicals - Supresta Facility) under 40
C.F.R. 761.61(c) - #2019-03-008

FROM: Scott Rice
Toxics Programs Branch (3LC41)

TO: John A. Armstead, Director
Land and Chemicals Division (3LC00)

THRU: Stacie Pratt, Chief
Toxics Programs Branch (3LC41)

Recommended Action:

Please sign this memo to indicate your intent to approve Nouryon, Inc.'s Risk-Based Disposal plan under 40 C.F.R. 761.61(c) for the facility located in Gallipolis Ferry, West Virginia. The facility was formerly owned by Akzo Nobel Chemicals and was known as their "Supresta" plant. The anticipated approval conditions are attached to this memo.

A notice with our intent to approve the plan will be posted in EPA's website for a 30-day comment period ending.

Background:

The facility is owned and operated by Nouryon Inc. which purchased the plant from Akzo Nobel Chemicals in 2015. The facility is a 40-acre active specialty-chemical manufacturing plant located on a flat terrace above the floodplain of the Ohio River in Gallipolis Ferry, Mason County, West Virginia. The chemical plant has been in operation since 1956 manufacturing flame retardants, plasticizers, hydraulic fluids and wetting agents. The facility consists of numerous mixing and blending vessels, storage tanks, overhead and underground process piping and utilities, support and administrative buildings, and parking and unloading areas. Access to the facility is restricted by an 8-foot chain link fence surrounding the entire property and 24-hour security.

Sovereign Consulting Inc., on behalf of Nouryon, Inc., conducted an environmental assessment of the facility in 2015. That assessment identified PCB contamination at two Areas of Concern (AOC IX and XI) where PCB fluid from a former heat-transfer system leaked decades earlier. Sovereign Consulting Inc. proposed to leave PCB contamination greater than 100 ppm in subsurface soils at AOCs IX and XI until such time that facility closure and/or major reconstruction allows for access to and removal of the PCB contamination. Both AOCs will be capped in accordance with 40 C.F.R. 761.61(a)(7) and a deed restriction will be recorded in accordance with 40 C.F.R. 761.61(a)(8) notifying potential future purchasers of the existence of,

and requirement to maintain the cap, the low-occupancy status of AOCs IX and XI, and the applicable PCB levels disposed of in those areas at the facility. Nouryon Inc. will maintain a Letter of Credit (Deutsche Bank AG Standby Letter of Credit No. 839BGB1900009, \$588,474) as a financial assurance mechanism to cover the future costs of closure and post-closure activities related to future cleanup of the PCB contamination at AOCs IX and XI. The facility is in West Virginia Department of Environmental Protection – Office of Environmental Remediation (WVDEP-OER), Voluntary Remediation Program (VRP) #09921.

Attachment

GENERAL CONDITIONS

1. The Approval shall become effective on the date of signature by the Land and Chemicals Division Director of EPA Region III. Sovereign Consulting, Inc. must provide written notification to EPA of its acceptance of, and intention to comply with, the conditions of the Approval. The person providing such written notification shall be a corporate officer of Nouryon Chemicals, LLC, the current owner of the Site. The Approval shall be revoked if the EPA does not receive written notification from Nouryon Chemicals, LLC of its acceptance of, and intention to comply with, the conditions and terms of the Approval within fifteen (15) business days of Nouryon Chemicals LLC's receipt of said Approval.
2. The Approval shall expire ten (10) years from the date of signature, unless extended, renewed, suspended, modified, revoked, or terminated in accordance with the conditions stated herein.
3. Application for renewal or extension of the Approval shall be made in writing at least 180 days, but not more than 270 days, prior to the expiration date. Application for renewal must include information to demonstrate that the Engineered Barrier, institutional controls, and monitoring requirements remain effective in mitigating risks from PCBs and in identifying PCB migration from the Site, and that Nouryon Chemicals, LLC (or a subsequent owner of the property subject to the terms of the Approval) has met and will continue to meet all conditions of the Approval. In reviewing the application for renewal, EPA will consider whether long-term monitoring and maintenance measures are effective, if additional measures are necessary to ensure no unreasonable risk to human health or the environment, and whether Approval conditions have been met. EPA may require the submission of additional information in connection with any renewal application.
4. Approval for these activities may be revoked, modified or otherwise altered at any time EPA finds a violation of the conditions of the Approval or of 40 CFR Part 761, including EPA's PCB Spill Cleanup Policy, or other applicable rules and regulations; if EPA finds that these activities present an unreasonable risk to public health or the environment; or if EPA finds that changes are necessary to comply with new rules, standards, or guidance for such approvals. Nouryon Chemicals LLC may apply for such a modification in the event new rules, standards, or guidance come into effect.
5. The Approval is granted under the authority of Section 6(e) of the Toxic Substances Control Act (TSCA), 15 U.S.C. §2605(e), and the PCB regulations at 40 CFR Part 761, and applies solely to the project and the Site described in the Application.
6. Nouryon Chemicals LLC must comply with all applicable federal, state and local regulations in the storage, handling, and disposal of all PCB wastes, including PCBs, PCB Items and decontamination wastes generated under the Approval. In the event of a new spill during remedial actions, Nouryon Chemicals LLC shall comply with the EPA's PCB Spill Cleanup Policy under 40 CFR Part 761, Subpart G (which applies to spills less than 72 hours old), if applicable.

7. Nouryon Chemicals, LLC is responsible for the actions of all officers, employees, agents, contractors, subcontractors, and others who are involved in activities governed by the Approval. If at any time Nouryon Chemicals, LLC has or receives information indicating that Nouryon Chemicals LLC or any other person has failed, or may have failed, to comply with any provision of the Approval, it must report the information to EPA in writing within 24 hours of having or receiving the information.

REVIEW OF AMENDED WORK PLANS AND ON-SITE ACTIVITIES

8. At least 30 days prior to amending activities authorized under the Approval and described in the Application, Nouryon Chemicals, LLC shall submit for EPA's review and approval, any amendments to the work plan that details the proposed change in the remedy at the Site. The amended work plan information shall include but not be limited to, the following components and associated schedules:

Plans and specifications for the Engineered Barrier, including maintenance schedules;

Environmental and groundwater monitoring plans during remedy implementation;

Post-closure Operation, Maintenance and Monitoring (OMM) for the Engineered Barrier;

Post-closure reporting, including the Activity and Use Limitation.

9. If the amended workplan will be implemented in phases, Nouryon Chemicals, LLC may submit work plans for each phase or type of activity. Amended work plans must be submitted to EPA for review and approval at least 30 days prior to conducting any activities under a work plan.
10. The Division Director of the Land and Chemicals Division will respond to each submission required under Conditions 8 and 9 above, notifying Nouryon Chemicals, LLC of any additional requirements to be addressed.

USE CONDITIONS AND DEED RESTRICTION

11. Within sixty (60) days of completing the activities described in the Application and in the approved work plans, Nouryon Chemicals, LLC shall submit for EPA's review and approval, a deed restriction for the Site. The deed restriction shall include: a description of the extent and levels of contamination at the Site following remediation; a description of the actions taken at the Site; a description of the use restrictions for the Site; and the long-term monitoring and maintenance requirements on the Site. Within sixty (60) days of EPA's acceptance of the deed restriction, Nouryon Chemicals, LLC shall record the deed restriction in the Registry of Deeds, Charleston, West Virginia. A copy of the Approval shall be attached to the deed restriction. Within 15 business days of the recording, Nouryon Chemicals, LLC shall submit to the EPA a copy of the deed restriction, with a certification by a corporate officer that Nouryon has recorded the restriction and Approval as required above.
12. Nouryon Chemicals, LLC will maintain a Letter of Credit with a certified lending institution that will be used to demonstrate that the closure and post-closure care financial

assurance requirements to cover the future costs of addressing the residual PCBs that will be left in the subsurface AOCs at the site.

13. Any modification(s) in the plan, specifications, or information submitted by Nouryon Chemicals, LLC contained in the Application, and forming the basis upon which the Approval has been issued, must receive prior written approval from the EPA. Nouryon Chemicals, LLC shall inform the EPA of any modification, in writing, at least 10 days prior to such change. No action may be taken to implement any such modification unless the EPA has approved of the modification, in writing. The EPA may request additional information in order to determine whether to approve the modification.

If such modification involves a change in the use of the Site which results in exposures not considered in the Application, the EPA may revoke, suspend, and/or modify the Approval if it finds that this risk-based cleanup and disposal action may pose an unreasonable risk of injury to health or the environment due to the change in use. EPA may take similar action if the EPA does not receive requested information from Nouryon Chemicals, LLC needed to make a determination regarding potential risk.

SALE, LEASE OR TRANSFER OF SITE

14. Nouryon Chemicals, LLC shall notify the EPA of the sale, lease or transfer of any portion of the Site, in writing, no later than 30 days prior to such action. This notification shall include the name, address, and telephone number of the new owner(s). In the event that Nouryon Chemicals, LLC sells, leases or transfers any portion of the Site, Nouryon Chemicals, LLC shall continue to be bound by all the terms and conditions of the Approval, unless EPA allocates some or all of the Approval's responsibilities to the new owner through the issuance of a new approval. The procedures for the issuance of a new approval are as follows:
 - a. The new owner(s), leasee or transfer entity must request, in writing, that the EPA issue an approval to the new owner(s), leasee or transfer entity which transfers some or all responsibilities to comply with the terms and conditions of the Approval to that entity or entities; and,
 - b. The EPA issues an approval to the new owner(s), leasee or transfer entity which transfers particular responsibilities, or all responsibilities, to comply with the terms and conditions of the Approval to that entity or entities; and,
 - c. The new owner(s), leasee or transfer entity provides written notification to the EPA of its acceptance of and intention to comply with the terms and conditions of the reissued approval. The reissued approval may be withdrawn if the EPA does not receive written notification from the new owner(s), leasee or transfer entity of its acceptance of, and intention to comply with, the terms and conditions of the reissued Approval within 30 days of the date of the reissued approval. Under such circumstances, all terms and conditions of the Approval will continue to be binding on Nouryon Chemicals, LLC; and,
 - d. In the event that the sale, lease or transfer of the Site will involve or result in a change in the use of the Site, EPA may revoke, suspend, and/or modify the Approval if it finds, due to the change in use, that this risk-based cleanup and

disposal action will not be protective of health or the environment. Any amendment to the deed restriction, resulting from any approved modification(s), shall be recorded within 60 days of such change(s).

15. In any sale, lease or transfer of the Site, Nouryon Chemicals, LLC shall retain sufficient access rights to enable it to continue to meet its obligations under the Approval for maintenance of the engineered cap.

INSPECTION AND REVOCATION CONDITIONS

16. Nouryon Chemicals, LLC shall allow any authorized representative of the Administrator of the EPA to inspect the Site and to inspect records and take samples as may be necessary to determine compliance with the PCB regulations and the Approval. Any refusal by Nouryon Chemicals, LLC to allow such an inspection (as authorized by Section 11 of TSCA) shall be grounds for revocation of the Approval.
17. The Approval, issued pursuant to 40 C.F.R. § 761.61(c), is based on full and forthright disclosure by Nouryon Chemicals LLC and Sovereign Consulting, Inc of all material facts. Any misrepresentation or omission by said companies of any material fact in the application may result in the EPA's revocation, suspension and/or modification of the Approval, in addition to any other legal or equitable relief or remedy the EPA may choose to pursue.
18. Minor modifications to the conditions of the Approval may be authorized, in writing, by the Division Director of the Land and Chemicals Division. Any departure from the conditions of the Approval without prior, written authorization from the EPA may result in the initiation of revocation, suspension and/or modification of the Approval, in addition to any other legal or equitable relief or remedy the EPA may choose to pursue.

RECORDKEEPING AND REPORTING

19. Nouryon Chemicals, LLC shall submit a Final Completion and Inspection Report (Report) to the EPA within 120 days of completion of the activities described under the Approval. At a minimum, this Report shall include: a narrative of the project activities; an estimate of the quantity of PCBs disposed of on-site and; copies of deed restrictions, OMM Plans for the areas included in the Approval as applicable; and any "As-Built Construction Reports". The Report shall also include a Completion Statement signed and sealed by a registered Licensed Site Professional or Professional Engineer in the State of West Virginia verifying that the activities have been implemented in accordance with the Approval and the Application.
20. Nouryon Chemicals, LLC shall prepare and maintain all records and documents required by 40 CFR Part 761, including but not limited to the records required by Subparts J and K. Nouryon Chemicals, LLC shall maintain a written record of the operations for activities conducted under the Approval, for at least 10 years at its corporate headquarters. All records shall be made available for inspection by authorized representatives of the EPA.