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west virginia department of environmental protection

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Division of Water and Waste Management  
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Charleston, WV 25304  
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Earl Ray Tomblin, Governor  
Randy C. Huffman, Cabinet Secretary  
dep.wv.gov

August 20, 2014

Tom Horan  
Manager Environmental  
Axiall Corporation  
WV State Rte. 2, P.O. Box 191  
New Martinsville, WV 26155

**RE: Modification to RCRA Hazardous Waste Management Permit # WVD004336343  
Axiall Corporation, New Martinsville, West Virginia**

Dear Mr. Waugaman:

Enclosed is the August 2014 Permit Modification developed by Axiall Corporation and the West Virginia Department of Environmental Protection (WVDEP). The Modification became effective August 20, 2014. This document is provided for all parties' files. Future permitting issues should be directed to Sudhir Patel at (304) 926-0499 ext. 1295 or Talal Fathallah at ext. 1290.

Sincerely,

Scott Mandirola  
Director, Water and Waste Management

cc: RCRA File # WVD004336343  
Jamie Fenske, DWWM  
Catherine Guynn, OER

**PERMIT MODIFICATIONS**

**1. MODULE IV FACILITY WIDE RCRA CORRECTIVE ACTION**

On May 12, 2014, WVDEP issued a Statement of Basis (SB) in which a Final Remedy for the Facility was proposed that consisted of a No Further Action component, a groundwater component, and facility-wide Institutional Controls. The proposed Final Remedy as set forth in the Statement of Basis became final as provided by the Final Decision Response to Comments (FDRTC), which was issued on July 21, 2014. The Final Remedy is hereby incorporated into Module IV Facility Wide RCRA Corrective Action Module (Module).

**2. ATTACHMENT IV-1, FINAL DECISION RESPONSE TO COMMENTS**

This Attachment contains a copy of the signed Final Decision Response to Comments which became effective on July 21, 2014.

**3. ATTACHMENT IV-2, INSTITUTIONAL CONTROL PLAN APPROVAL LETTER**

This Attachment contains a copy of the signed June 2, 2000 letter in which EPA approves the Facility's Institutional Control Plan.

**4. ATTACHMENT IV-3,**

The Groundwater Monitoring Plan once submitted and approved by WVDEP, will be appended to this Permit in Attachment IV-3.

## **MODULE IV FACILITY WIDE RCRA CORRECTIVE ACTION**

On May 12, 2014, WVDEP issued a Statement of Basis (SB) in which a Final Remedy for the Axiall Eagle Natrium facility was proposed that consisted of a No Further Action component, a groundwater component and facility-wide Institutional Controls. Public comments were requested on the proposed Final Remedy from May 12, 2014 until June 13, 2014.

Since no comments were received during the public comment period, the proposed Final Remedy as set forth in the Statement of Basis became final as provided by the Final Decision Response to Comments (FDRTC), which was issued on July 21, 2014. The Final Remedy is hereby incorporated into this Facility Wide RCRA Corrective Action Module (Module) and the requirements thereof are below.

### **IV-A DEFINITIONS**

For the purposes of RCRA Corrective Action and this RCRA Corrective Action Module, the following definitions shall apply:

1. "Project Manager" shall mean the OER RCRA Corrective Action Project Manager.
2. "Facility" shall mean all contiguous land, structures, other appurtenances, and improvements on the land.
3. "Area of Concern" shall mean an area at the Facility or an off-site area, not originally identified as a solid waste management unit, where hazardous waste and/or hazardous constituents are present or suspected to be present.
4. "Solid Waste Management Unit" shall mean any unit at the facility from which hazardous constituents might migrate, irrespective of whether the units were used for the management of solid and/or hazardous wastes.

### **IV-B REPORTS NOTIFICATIONS AND SUBMISSIONS**

1. For the purposes of RCRA CA, all RCRA CA work plans, reports, notifications or other submissions required by Module IV shall be sent by electronic mail (preferred), certified mail, certified carrier, or hand-delivered as follows:

**One Copy To:**

RCRA CA Project Manager  
West Virginia Department of Environmental Protection  
Office of Environmental Remediation  
601 57<sup>th</sup> Street  
Charleston, WV 25301

**One Copy To:**

RCRA CA Program Manager  
West Virginia Department of Environmental Protection  
Office of Environmental Remediation  
601 57<sup>th</sup> Street  
Charleston, WV 25301

**One Copy To:**

EPA Project Manager  
United States Environmental Protection Agency, Region III  
Office of Remediation  
1650 Arch Street  
Philadelphia, PA 19103-2029  
(3LC20)

2. Additionally, reporting requirements as required by **Module I** through **Module III** shall be submitted in accordance with Section I-F-17 Submittal of Reports or Other Information.

**IV-C CORRECTIVE ACTION (CA) FOR CONTINUING RELEASES; PROTECTION OF HUMAN HEALTH AND THE ENVIRONMENT**

1. Section 3004(u) of RCRA, 42 U.S.C. § 6924(u), and regulations codified at 40 CFR §264.101, provide that all permits issued after November 8, 1984 must require CA as necessary to protect human health and the environment for all releases of hazardous waste or hazardous constituents from any solid waste management unit (SWMU) regardless of when waste was placed in the unit.
2. Under Section 3004(v) of RCRA, 42 U.S.C. § 6924(v), and 40 CFR §264.101(c), CA at a permitted facility may be required beyond the facility boundary, where necessary, to protect human health and the environment, unless the Facility demonstrates that, despite its best efforts, the Facility was unable to obtain the necessary permission to undertake such action.

**IV-D REMEDY IMPLEMENTATION**

The Final Remedy for the Facility was developed and is described in the Final Decision Response to Comments (FDRTC). See Attachment IV-1.

1. **No Further Action:**

The RCRA Facility Investigation (RFI) concluded that for a number of solid waste management units (SWMUs) investigated, the data demonstrated that the unit presented no unacceptable risk to human health or the environment.

**2. Facility-Wide Groundwater:**

The Facility-wide groundwater pumping and treating program will continue until Corrective Active Objectives (CAOs) are accomplished. The Facility will maintain a groundwater monitoring program to demonstrate that the inward gradient is maintained and to monitor the contaminant mass and concentration of the constituents of concern (COCs). The Facility will continue to identify source areas of contamination and, where possible, apply a remediation technique to reduce the impacts of the source areas. Finally, the Final Remedy for groundwater also includes maintenance of groundwater use restrictions at the Facility.

**3. Institutional Controls:**

Institutional Controls (ICs) are non-engineered instruments, such as administrative and legal controls, that minimize the potential for human exposure to contamination and/or protect the integrity of the decision by limiting land or resource use. Under the Final Remedy, some contaminants remain in the groundwater and soil at the Facility above levels that exceed residential use, as such, the Final Remedy requires the compliance with and maintenance of land and groundwater use restrictions. The ICs shall include, but not be limited to, the following land and groundwater use restrictions:

- a. Groundwater at the Facility shall not be used for any purpose other than 1) industrial use and non-contact cooling water; and 2) the operation, maintenance, and monitoring activities required by WVDEP and/or the U.S. Environmental Protection Agency (EPA), unless it is demonstrated to WVDEP, in consultation with EPA, that such use will not pose a threat to human health or the environment or adversely affect or interfere with the Final Remedy and WVDEP provides written approval for such use;
- b. The Facility property shall not be used for residential purposes unless it is demonstrated to WVDEP, in consultation with EPA, that such use will not pose a threat to human health or the environment or adversely affect or interfere with the Final Remedy, and WVDEP provides written approval for such use;
- c. All earth moving activities, including excavations, will be managed in accordance with the Soils Management guidelines identified in the Institutional Control Plan for the Natrium Facility, dated June 2, 2000 and approved by EPA on June 13, 2000. See EPA approval letter in Attachment IV-2.
- d. The Property will not be used in a way that will adversely affect or interfere with the integrity and protectiveness of the Final Remedy;

- e. Any new production, injection or water wells installed at the Facility will be installed in accordance with the State and Local regulatory and permitting process for the installation of new wells. Additionally, any newly installed wells will be modeled on the Facility's site-wide model to ensure there are no impacts to maintaining ongoing site-wide groundwater hydraulic control.
- f. Owner agrees to provide WVDEP and EPA with a "Certified, True and Correct Copy" of any instrument that conveys any interest in the Facility property or any portion thereof;
- g. Owner agrees to allow the WVDEP, EPA and/or their authorized agents and representatives, access to the Property to inspect and evaluate the continued effectiveness of the final remedy and if necessary, to conduct additional remediation to ensure the protection of the public health and safety and the environment based upon the final remedy to be selected by WVDEP in the Final Decision and Response to Comments (FDRTC);
- h. A new Groundwater Monitoring Plan (GMP) will be developed for the entire Facility, which will be submitted to the WVDEP for their review and comments within 120 days of final remedy implementation. The plan will include monitoring wells to be sampled, analyses to be performed, and a schedule for implementing the sampling activities. WVDEP will provide guidance to the Facility as to the content and format of the GMP within thirty (30) days of final remedy implementation. Upon approval by WVDEP, the Groundwater Monitoring Plan and requirements thereof will be incorporated into this Permit as Attachment IV-3.

#### **4. Implementation of Institutional Controls**

Land and groundwater use restrictions necessary to prevent human exposure to contaminants at the Facility will be implemented through enforceable Institutional Controls, such as a Permit, Order or an Environmental Covenant (EC), pursuant to the West Virginia Uniform Environmental Covenants Act. If an EC is to be the Institutional Control mechanism, it will be recorded in the chain of title for the Facility property with the Clerk of the County Commission. In addition, WVDEP acknowledges that the West Virginia Department of Health issues drinking water permits for wells and does not allow the use of contaminated groundwater as a drinking water source.

The continuation of the GMP until groundwater clean-up standards are met will be enforceable through the final enforceable instrument, such as a permit, order, or an EC. If WVDEP determines that additional institutional controls or other corrective actions are necessary to protect human health or the environment, WVDEP has the authority to require and enforce such additional corrective action under that instrument.

#### **IV-E EVALUATION OF THE SELECTED REMEDY**

The Facility shall submit annual progress reports on the remedy performance, including any Institutional Controls. If the Agencies determine that the selected remedy will not comply with the media clean-up requirements, the Agencies may require the Permittee to perform additional studies and/or perform modifications to the existing Corrective Action remedy.

#### **IV-F EMERGENCY RESPONSE; RELEASE REPORTING**

1. If at any time, the Permittee discovers that a release of hazardous waste or hazardous constituents from a SWMU at the Facility is presenting or may present an imminent and substantial endangerment to human health or the environment, the Permittee shall notify the WVDEP as soon as practicable of the source, nature, extent, location and amount of such release, the endangerment posed by such release and the actions taken and/or to be taken, to the extent known, to address such release.
2. Within five days of discovery, the Permittee shall notify WVDEP, in writing, of the nature, source, extent, and location of such release of hazardous waste or hazardous constituents from the SWMU.
3. If, based on the information submitted a release has not been adequately remediated to be protective of human health and the environment, WVDEP may require the SWMU and/or AOC to be included in an RFI or an IM.

#### **IV-G GUIDANCE DOCUMENTS**

All work to be performed at the Facility pursuant to this Permit shall be in general accordance with applicable EPA RCRA corrective action guidance available at [http://www.epa.gov/reg3wcmd/ca/ca\\_resources.htm](http://www.epa.gov/reg3wcmd/ca/ca_resources.htm).

#### **IV-H NEWLY DISCOVERED SOLID WASTE MANAGEMENT UNIT (SWMUs)**

1. The Permittee shall notify the Project Manager, in writing, of any newly identified SWMU at the Facility, no later than thirty days after the date of discovery. The notification shall include, but is not limited to, the following known information:
  - a. A description of the newly identified SWMU(s), function, dates of operation, location (including a map), design criteria, dimensions, materials of construction, capacity, ancillary systems (e.g., piping), release controls, alterations made to the unit, engineering drawings, and all closure and post-closure information available, particularly whether wastes were left in place.
  - b. A description of the composition and quantities of solid wastes processed by the newly identified SWMU(s) with emphasis on hazardous wastes and hazardous constituents.

- c. A description of any release (or suspected release) of hazardous waste or hazardous constituents originating from the newly identified SWMU. Include information on the date of release, type of hazardous waste or hazardous constituents, quantity and nature of the release, extent of release migration, and cause of release (e.g., overflow, broken pipe, tank leak, etc.). Also, provide any available data that quantifies the nature and extent of environmental contamination, including the results of soil and/or groundwater sampling and analysis efforts. Likewise, submit any existing monitoring information that indicates releases of hazardous waste or hazardous constituents have not occurred or is not occurring.
2. Upon receipt of the notification of any newly identified SWMU, the Project Manager will determine the need for corrective action at such SWMU. If corrective action is necessary to protect human health or the environment, the Project Manager will determine whether an RFI will be performed and the need for any IMs.
3. In lieu of a separate RFI, the Permittee may propose either to incorporate any newly identified SWMU into an ongoing RFI or to submit a proposal for the performance of corrective measures at such newly identified SWMU. Any such proposal shall be submitted to the Agencies along with notification of the discovery of the SWMU(s). Incorporation of any newly identified SWMU(s) into an ongoing RFI shall be through the submission of an RFI Work Plan Addendum by the Permittee. Any such RFI Work Plan Addendum shall receive approval by the Agencies prior to initiation of the related RFI work.

#### IV-I FINANCIAL ASSURANCE

1. Initial Cost Estimate: Within ninety calendar days of the effective date of this Permit, the Permittee shall submit an initial cost estimate (Cost Estimate), in current dollars, to perform the work required under Section IV-D "Remedy Implementation". The Cost Estimate must account for the costs of all foreseeable work, including all investigation and reports, construction work, monitoring, and other long term care work, etc.
2. Annual Cost Estimate Updates: Within sixty days prior to the anniversary date of the establishment of the financial instrument for the work required Section IV-D "Remedy Implementation", the Permittee shall submit to the CA Program Manager updated cost estimates, adjusted for inflation, for completing the approved work. If the financial test or corporate guarantee is used as the financial instrument, the owner or operator must send updated cost estimates to the CA Program Manager within 90 days after the close of each succeeding fiscal year in accordance with 40 CFR 264.145(f)(5).
3. Financial Assurance Demonstration: Within thirty calendar days of approval of the initial cost estimate for the work required under this Module, and annually thereafter,



the Permittee shall demonstrate compliance with financial assurance to CA Program Manager in accordance with 40 CFR § 264.143 for completing the work required under Section IV-D “Remedy Implementation” in accordance with 40 CFR § 264.101(b). Within thirty calendar days of approval of any revised cost estimate, the Permittee shall demonstrate to the CA Program Manager financial assurance for the updated cost estimates.

#### **IV-J RECORDKEEPING**

Upon completion of closure of any current or future SWMU, the Permittee shall maintain in the Facility operating record, documentation of the closure measures taken.

#### **IV-K ACCESS FOR CORRECTIVE ACTION OVERSIGHT**

The WVDEP and its authorized representatives shall have access to the Facility at all reasonable times for monitoring compliance with the provisions of this Permit. The Permittee shall use its best efforts to obtain access to property for all parties beyond the boundaries of the Facility at which corrective action is required by this Permit.

#### **IV-L COMPLETION OF REMEDY**

Within ten days of receipt of notification by the Project Manager that the remedy is complete, the Permittee shall submit a written certification to the Project Manager stating that the remedy has been completed in accordance with the requirements of this Permit Module. The certification must be signed by the Permittee. In cases where no other Permit Conditions remain, the Permit may be modified not only to reflect the completion determination, but also to change the expiration date of the permit to allow earlier permit expiration in accordance with 40 CFR Parts 124, 270.41, and 270.42, as applicable.