

**HAZARDOUS WASTE SECTION - COMPLIANCE BRANCH  
FILE TRANSMITTAL & DATA ENTRY FORM**

**Facility ID Number:** NCR000143545

**Facility Name:** Momentive Specialty Chemicals (formerly Hexion)

**Document Group:** Inspection/Investigation (I)

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**File Description/Comments:** Copy of Notice of Violation and Opportunity to Show Cause letter from EPA to facility for July 15-16, 2008 CEI

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**Author(s) of Document:** Caroline Robinson, Chief EPA RCRA Division

**Inspector Name:** N/A

**Suborganization:**

**County (if not on report):** Columbus



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

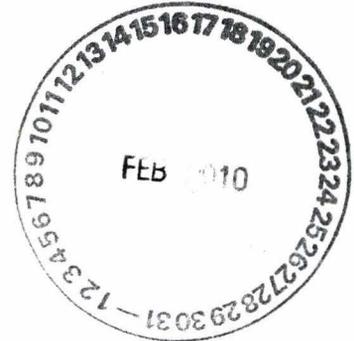
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ATLANTA, GEORGIA 30303-8960

FEB 08 2010

Jimmy P.

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Ronald Bazinet, Site Leader  
Hexion Specialty Chemicals  
333 Neils Eddy Road  
Riegelwood, North Carolina 28456



SUBJ: Notice of Violation (NOV) and Opportunity to Show Cause  
Hexion Specialty Chemicals  
EPA ID Number: NCR 000 143 545

Dear Mr. Bazinet:

On July 15 – 16, 2008, the United States Environmental Protection Agency (EPA) and the North Carolina Department of Environment and Natural Resources (NCDENR) conducted a Compliance Evaluation Inspection (CEI) at Hexion Specialty Chemicals (Hexion), located in Riegelwood, North Carolina, to determine the facility's compliance status with the Resource Conservation and Recovery Act (RCRA) and NCDENR regulations.

Based on this inspection, EPA has determined that Hexion violated certain requirements of RCRA, 42 U.S.C. §§ 6901 et seq., as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), Pub. L. 98-616, and the corresponding North Carolina regulations found at N.C. ADMIN. CODE tit. 15A rr. 13A.0101 et. seq.

Specifically, Hexion may be in violation of the following:

1. Waste Determination - 40 CFR § 262.11, adopted by reference at N.C. ADMIN. CODE tit. 15A r. 13A.0107(a), states that a person who generates a solid waste, as defined in 40 CFR § 261.2, must determine if that waste is a hazardous waste using the method described in Section 262.11. At the time of the inspection, Hexion appeared to have failed to make a hazardous waste determination on waste paint and waste paint related items that were located adjacent to the cooling towers.
2. Container Marking - 40 CFR § 262.34(a)(2), adopted by reference at N.C. ADMIN. CODE tit. 15A r. 13A.0107(c), states that the date upon which each period of accumulation begins must be clearly marked and visible for inspection on each container. At the time of the inspection, Hexion appeared to have failed to mark numerous containers of non-RCRA empty drums of vanadium pentoxide, an acute hazardous waste, with accumulation start dates.
3. Container Labeling - 40 CFR § 262.34(a)(3), adopted by reference at N.C. ADMIN. CODE tit. 15A r. 13A.0107(c), states that while being accumulated on-site, each container and

tank that is used to store hazardous waste must be labeled or marked clearly with the words “Hazardous Waste.” At the time of the inspection, Hexion appeared to have failed to label numerous containers of non-RCRA empty drums of vanadium pentoxide, an acute hazardous waste, with the words “Hazardous Waste.”

4. Local Authority Notification - 40 CFR § 262.34(a)(4), adopted by reference at N.C. ADMIN. CODE tit. 15A r. 13A.0107(c), states that a generator may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, provided the generator complies with the requirements for owners or operators in 40 CFR Part 265 Subparts C and D.

Specifically, according to 40 CFR § 265.37, adopted by reference at N.C. ADMIN. CODE tit. 15A r. 13A.0110(c), the owner or operator must attempt to make arrangements with their local authorities according to this Section. At the time of the inspection, Hexion appeared to have failed to attempt to make arrangements with local authorities.

5. Content of Contingency Plan - 40 CFR § 262.34(a)(4), adopted by reference at N.C. ADMIN. CODE tit. 15A r. 13A.0107(c), states that a generator may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, provided the generator complies with the requirements for owners or operators in 40 CFR Part 265 Subparts C and D.

Specifically, according to 40 CFR § 265.52(f), adopted by reference at N.C. ADMIN. CODE tit. 15A r. 13A.0110(d), the contingency plan must include an evacuation plan for facility personnel where there is a possibility that evacuation could be necessary. This plan must meet the specific requirements of this Section. At the time of the inspection, Hexion appeared to have failed to describe their evacuation routes in their contingency plan.

6. Storage without a Permit - 40 CFR § 262.34 (b), adopted by reference at N.C. ADMIN. CODE tit. 15A r. 13A.0107(c), states that a generator who accumulates hazardous waste for more than 90 days is an operator of a storage facility and is subject to the requirements of 40 CFR Parts 264 and 265 and the permit requirements of 40 CFR Part 270.

According to 40 CFR § 270.10(a)(3), adopted by reference at N.C. ADMIN. CODE tit. 15A r. 13A.0113(b), any person who is required to have a permit shall complete, sign, and submit an application to the Director as described in this Section and §§ 270.70 through 270.73. At the time of the inspection, Hexion appeared to have failed to receive a storage extension for numerous containers of non-RCRA empty drums of vanadium pentoxide, an acute hazardous waste that was stored for longer than 90 days.

7. Satellite Accumulation Area (SAA) Requirement/Container Management - 40 CFR § 262.34(c)(1)(i), adopted by reference at N.C. ADMIN. CODE tit. 15A r. 13A.0107(c), addresses the accumulation of hazardous waste in satellite accumulation areas and requires compliance with 40 CFR § 265.173(a).

According to 40 CFR § 265.173(a), adopted by reference at N.C. ADMIN. CODE tit. 15A r. 13A.0110(i), states that a container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste. At the time of the inspection, Hexion appeared to have failed to close one container of hazardous waste, which was being managed in a SAA located in the QA Laboratory, Solvent and Gas Room.

With this NOV, Hexion is being offered the opportunity to meet at the EPA regional office in Atlanta, Georgia, or by teleconference, to show cause why EPA should not take formal enforcement action against Hexion pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), for the violations listed above, including the assessment of appropriate civil penalties. Please be aware that Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), authorizes EPA to assess penalties for each violation and each day of continued noncompliance.

Although this proposed meeting is informal in nature, Hexion may elect to be represented by legal counsel. At the meeting, Hexion will be allowed to present information relevant to the factual basis of EPA's allegations, and factors that might mitigate any penalties that may be assessed. Hexion should be prepared to provide relevant documentation of all matters presented at the meeting, including information relevant to its ability to pay a penalty.

If Hexion chooses to accept this offer to meet with EPA and show cause why enforcement action should not be taken against Hexion, please contact EPA within ten (10) days of your receipt of this NOV to set a time and date for the meeting. To accept this offer, please contact Nancy McKee of the North Enforcement and Compliance Section at (404) 562-8674, or your legal counsel may contact Alfred Politzer, Assistant Regional Counsel, at (404) 562-9705.

If Hexion decides not to accept this offer, then EPA may proceed without further prior notice with enforcement action against Hexion as authorized under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), including the assessment of appropriate civil penalties.

Sincerely,



Caroline Y. F. Robinson, Chief  
RCRA and OPA Enforcement and  
Compliance Branch  
RCRA Division

cc: Liz Cannon, NCDENR  
April Hanson, Hexion