



EDMUND G. BROWN JR.
GOVERNOR



MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

Santa Ana Regional Water Quality Control Board

January 25, 2016

Modified Plastics Inc
1240 East Glenwood Place
Santa Ana, CA 92707
(By Regular Mail)

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Attilio Giovanatto
attillio@modifiedplastics.com
(By Email Only)

Robert Estep (Agent for Service of Process)
1240 East Glenwood Place
Santa Ana, CA 92707
(By Certified Mail)

TRANSMITTAL OF MANDATORY MINIMUM PENALTY COMPLAINT NO. R8-2016-0013, MODIFIED PLASTICS INC

Dear Attilio Giovanatto:

Enclosed is Mandatory Minimum Penalty Complaint No. R8-2016-0013 (Complaint). The Complaint alleges that you have violated California Water Code (Water Code) Section 13399.30 by failing to recertify under the State's General Permit for Storm Water Discharges Associated with Industrial Activities, Order No. 2014-0057-DWQ, NPDES No. CAS000001 (General Permit) for Modified Plastics Inc's (Modified Plastics) facility located at 1240 East Glenwood Place, in the City of Santa Ana.

The Complaint proposes that a penalty in the amount of six thousand five hundred dollars (\$6,500) be imposed. The penalty amount is comprised of mandatory minimum penalties as required by California Water Code Sections 13399.33(a)(1) and 13399.33(d).

A public hearing on this matter is scheduled for the Regional Board meeting on April 22, 2016. A tentative order, the staff report regarding this Complaint and the meeting agenda will be mailed to you not less than 10 days prior to the hearing. A meeting agenda will also be available at: http://www.waterboards.ca.gov/santaana/board_info/agendas/.

Pursuant to California Water Code Section 13323, Modified Plastics has the option to waive its rights to a hearing. Should Modified Plastics waive its rights to a hearing and

pay the proposed assessment, the Regional Board may not hold a public hearing on this matter. If Modified Plastics chooses to waive its rights to a hearing, please sign and submit the enclosed Waiver Form by February 23, 2016. Please make the check payable to the Waste Discharge Permit Fund for six thousand five hundred dollars (\$6,500) and include the Complaint Number on the memo line. Please send the following information to the appropriate location:

Mail Waiver Form to:
RWQCB
Attn: Michelle Beckwith
3737 Main Street, Suite 500
Riverside, CA 92501

Mail Payment to:
SWRCB – Accounting Office
Attn: Sarah Fong
P.O. Box 1888
Sacramento, CA 95812-1888

If Modified Plastics does not wish to waive its rights to a hearing, a pre-hearing meeting is recommended. Should you wish to schedule a pre-hearing meeting, please submit your request to Michelle Beckwith by phone at (951) 782-4433 or by email at Michelle.Beckwith@waterboards.ca.gov prior to February 16, 2016.

A Hearing Procedure pertaining to this Complaint is also enclosed. The Hearing Procedure sets forth important requirements and deadlines for participation in the hearing. Additionally, a Fact Sheet describing the Complaint process is available at:

http://www.waterboards.ca.gov/santaana/public_notices/enforcement_actions.shtml

The Fact Sheet describes the complaint process and explains what Modified Plastics can expect and its obligations as the process proceeds. If preferred, a hard copy of the Fact Sheet may be obtained by contacting Michelle Beckwith at (951) 782-4433.

Please read the Hearing Procedure carefully. The Board may adopt an Order requiring that you pay a penalty.

If you have any questions regarding the Complaint or the enclosed documents, please contact Michelle Beckwith by phone at (951) 782-4433 or by email at Michelle.Beckwith@waterboards.ca.gov. All legal questions should be directed to Naomi Kaplowitz, Office of Enforcement, by phone at (916) 341-5677 or by email at Naomi.Kaplowitz@waterboards.ca.gov.

Sincerely,



Hope A. Smythe
Division Chief
Regional Board Prosecution Team

Enclosures: MMP Complaint No. R8-2016-0013
Hearing Procedures
Waiver Form
Exhibit 1: 1st Notice of Non-Compliance, dated 9/9/15
Exhibit 2: 2nd Notice of Non-Compliance, dated 10/9/15

cc: Regional Board
Mr. Kurt Berchtold, Executive Officer, RWQCB, Riverside (Regional Board
Advisory Team)
Mr. David Rice, Office of Chief Counsel, SWRCB, Sacramento (Regional Board
Advisory Team Attorney)
Ms. Naomi Kaplowitz, Office of Enforcement, SWRCB, Sacramento (Regional
Board Prosecution Team Attorney)
Ms. Diana Messina, Division of Water Quality, SWRCB, Sacramento
Mr. Richard Boon, Orange County Public Works
Mr. Tyrone Chesanek, City of Santa Ana NPDES Coordinator

**State of California
California Regional Water Quality Control Board
Santa Ana Region**

IN THE MATTER OF:

Modified Plastics Inc)	Complaint No. R8-2016-0013
1240 East Glenwood Place)	for
Santa Ana, CA 92707)	Mandatory Minimum Penalty
Attn: Attilio Giovanatto)	
_____)	

This Complaint is issued to Modified Plastics Inc (hereinafter Discharger) to assess administrative civil liability pursuant to California Water Code (hereinafter Water Code) sections 13399.30 and 13399.33, subdivisions (a) and (d). The Complaint addresses the Discharger's failure to submit a required recertification by July 1 of 2015, as required by the new statewide Industrial General Permit for Storm Water Discharges Associated with Industrial Activities (Order No. 2014-0057-DWQ) (hereafter General Permit). This permit became effective July 1, 2015, replacing Order No. 97-03-DWQ. State Water Resources Control Board's Water Quality Order No. 97-03-DWQ National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000001, Waste Discharge Requirements for Discharges of Storm Water Associated with Industrial Activities.

THE DIVISION CHIEF OF THE CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD, SANTA ANA REGION HEREBY GIVES NOTICE THAT:

1. The Discharger is alleged to have violated provisions of law for which the California Regional Water Quality Control Board, Santa Ana Region (Regional Water Board), is required to impose a mandatory minimum penalty pursuant to Water Code section 13399.33. This Complaint proposes to assess \$6,500 in mandatory penalties for the violation cited herein.
2. Unless waived, a hearing concerning this Complaint will be held before the Regional Water Board at its regular meeting on April 22, 2016, at the Orange County Sanitation District, 10844 Ellis Avenue in the city of Fountain Valley. The Discharger, or its representative, will have an opportunity to appear and be heard, and to contest the allegations in this Complaint and the imposition of mandatory minimum penalties by the Regional Water Board. An agenda for the meeting will be mailed to the Discharger not less than 10 days before the hearing date. A meeting agenda will also be available at: http://www.waterboards.ca.gov/santaana/board_info/agendas/.
3. The Discharger can waive its right to a hearing to contest the allegation contained in this Complaint by signing and submitting the enclosed waiver and

paying the liability in full or by taking other actions as described in the waiver form. If this matter proceeds to a hearing, the Prosecution Team reserves the right to seek an increase in the penalty amount to cover the costs of enforcement incurred subsequent to the issuance of this Complaint through hearing. The Regional Water Board is required to recover enforcement costs pursuant to Water Code section 13399.33(d).

4. At the hearing, the Regional Water Board will consider whether to affirm, reject, or modify the proposed mandatory minimum penalties and assessment of costs pursuant to Water Code section 13399.33, or whether to refer the matter to the Attorney General for recovery of judicial civil liability.

THIS COMPLAINT IS BASED ON THE FOLLOWING FACTS:

5. Most industrial facilities that discharge storm water associated with industrial activities are required to obtain coverage under the General Permit. General Permit coverage is required for facilities listed by industrial category and by Standard Industrial Classification (SIC) codes in 40 Code of Federal Regulations section 122.26(b)(14) and in Attachment 1 of the General Permit.

40 Code of Federal Regulations section 122.26(b)(14)(xi) and Attachment A of the General Permit requires manufacturing facilities under SIC Major Group 28 to obtain a General Permit. SIC Major Group 28 includes establishments producing basic chemicals, and establishments manufacturing products by predominantly chemical processes. SIC Industry Group 282 covers establishments engaged in manufacturing plastics materials and synthetic resins. SIC code 2821 includes manufacturing synthetic resins, plastics materials, and nonvulcanizable elastomers.

6. The Discharger operates an industrial facility engaged in plastic materials manufacturing located at 1240 East Glenwood Place, in the City of Santa Ana. Plastic materials manufacturing is an industrial activity as described in Standard Industrial Classification (SIC) code 2821. Therefore, the Discharger must obtain coverage under the General Permit.
7. The Discharger obtained coverage under the previous General Permit (Order No. 97-03-DWQ) on November 21, 2007 and was designated with a Waste Discharge Identification Number (WDID) of 8 30I021297.
8. On April 1, 2014, the State Water Board adopted a new statewide Industrial General Permit for Storm Water Discharges Associated with Industrial Activities (Order No. 2014-0057-DWQ). This permit became effective July 1, 2015, replacing Order No. 97-03-DWQ. The new General Permit required dischargers with coverage under the previous permit to register for coverage by certifying and submitting the following documents via the State Board's Storm Water Multiple Application and Report Tracking System (SMARTS):

- a. A completed Notice of Intent (NOI) and signed certification statement;
- b. A copy of a current site map from the Storm Water Pollution Prevention Plan (SWPPP); and,
- c. A SWPPP.

The submittal process is referred to as "recertification". Dischargers with coverage under the previous General Permit that failed to register for coverage under the new General Permit by July 1, 2015, are subject to having their permit coverage administratively terminated. The General Permit, Section II, requires recertification to be done via SMARTS; email submittals are not allowed.

9. Outreach efforts were conducted by State Water Resources Control Board to inform dischargers of the new requirements of the General Permit between its adoption on April 1, 2014 and its effective date of July 1, 2015. Several informational workshops were held across the state, including two, three hour workshops on February 26, 2015 and March 26, 2015 in Rancho Cucamonga. A letter, post cards, and emails were also sent to dischargers before the July 1, 2015 deadline informing dischargers of the new General Permit and the requirement to recertify on SMARTS.
10. Due to a technical issue that affected the bandwidth of SMARTS and restricted access to the database, the July 1, 2015 deadline to obtain coverage under the General Permit (Order No. 2014-0057-DWQ) was extended to August 14, 2015. The Discharger did not obtain coverage under the General Permit by August 14, 2015.
11. The Discharger did not obtain coverage under the General Permit by August 14, 2015. Therefore a Notice of Non-Compliance (NNC) was issued to the Discharger, by certified mail, on September 9, 2015. The NNC requested that the Discharger complete the recertification process by October 8, 2015. The return receipt showed that the first NNC was received on September 11, 2015. The NNC and return receipt is attached to this complaint as Exhibit #1.
12. On September 22, 2015, Regional Water Board contacted Mr. Attilio Giovanatto, the Discharger's contact on file, to confirm that recertification of WDID 8 30I021297 is required and to provide recertification instructions.
13. On October 9, 2015 a second NNC was issued because the Discharger had not recertified by the due date specified in the 1st NNC (October 8, 2015). The return receipt showed the second NNC was received on October 13, 2015. The second NNC requested that the Discharger complete the recertification process by November 6, 2015. The second NNC and return receipt is attached to this complaint as Exhibit #2.

14. On October 21, 2015, Regional Water Board staff again emailed Mr. Giovanatto recertification instructions as well as the SMARTS help guide. A response email from Mr. Giovanatto was received containing copies of the "Prevention Plan, Supplement, and Site Plan". The required actions for recertification include completing the NOI, and uploading the SWPPP and Site Map via SMARTS. Emailed submittals are noncompliant.
15. On October 22, 2015, Regional Water Board staff contacted Mr. Giovanatto via email reiterating the requirement to submit the documents as uploads via SMARTS. A response email from Mr. Giovanatto was received on October 22, 2015, indicating that he would upload the documents into SMARTS the following week.
16. On October 26, 2015, Regional Water Board staff contacted Mr. Giovanatto via email to again remind him of the requirement to upload the documents via SMARTS and to do so before the November 6, 2015 deadline.
17. On October 29, 2015, Mr. Giovanatto contacted Board staff via email stating that he needed the SMARTS Secret Code Number (SCN) and that "access was denied." Board staff reminded Mr. Giovanatto that the SCN was provided in both NNCs which were received by the Discharger.
18. On November 2, 2015, Regional Water Board staff spoke with Mr. Giovanatto instructing him to follow the recertification guidance document provided previously in both NNCs and subsequent emails address to him. At 10:25am, Regional Water Board staff emailed Mr. Giovanatto asking him to provide screenshots of the screen/step that was preventing him from recertifying. At 11:37am, Regional Water Board staff again emailed Mr. Giovanatto a copy of the recertification guidance document. At 11:45am, Mr. Giovanatto emailed a screenshot; however Regional Water Board staff was unable to identify the issue that was preventing him from recertifying other than the screenshot displaying the internet browser as Internet Explorer (IE) 11. SMARTS is currently designed to be compatible only with IE 9 or 10. This browser requirement is noted on both the SMARTS log in webpage, recertification guidance document, and SMARTS help guide.
19. On November 4, 2015, Regional Water Board staff spoke with Mr. Giovanatto and suggested that he try to use Google Chrome to complete the recertification process. Limited success using Google Chrome has been reported by some dischargers. However, IE 9 or 10 is still documented as the only supported browser. At 2:36pm and 3:08pm, Mr. Giovanatto indicated via two emails that he was still unable to recertify and provided screenshots. Again, it was clear that Mr. Giovanatto was not using IE 9 or 10 as the applicable recertification steps were not displaying. At 3:21pm, Regional Water Board staff provided instructions to clear Mr. Giovanatto's browser history, a known error for Google Chrome,

which may have been preventing him from recertifying. This suggestion was provided by the SMARTS Help Desk.

20. On November 5, 2015, Regional Water Board staff attempted to contact Mr. Giovanatto via phone and was unsuccessful. An email was sent at 5:24pm requesting a status update regarding the Discharger's recertification and reiterated the potential monetary penalties. The email also stated that Regional Water Board staff would contact the SMARTS Help Desk to find a solution. At 5:42pm, Mr. Giovanatto indicated that he was still unable to recertify using Google Chrome. Troubleshooting instructions were provided via email to Mr. Giovanatto on November 4, 2015. At 5:44pm, Regional Water Board staff asked if Mr. Giovanatto had followed the browser history clearing process. No response was received. At 8:52pm, Regional Water Board staff emailed Mr. Giovanatto again stating that IE 9 or 10 are the only supported browsers and that in-person assistance could be provided at the Regional Water Board office located in Riverside.
21. On November 6, 2015, at 10:07am, Regional Water Board staff left a voice mail for Mr. Giovanatto reiterating the final recertification deadline of November 6, 2015 and the impending monetary penalties. At 11:46am, Regional Water Board staff contacted Mr. Giovanatto via email and reiterated the deadline, stated that no further extensions would be given, and stated that if the recertification process was not completed by close of business, the Discharger would be assessed applicable monetary penalties. At 3:20pm, Regional Water Board staff attempted to contact Mr. Giovanatto via phone and was informed by the receptionist that he was not in the office. No response was received by close of business.
22. On December 17, 2015, the Discharger completed the recertification process.

LEGAL AUTHORITY

23. Water Code section 13399.30 requires the Regional Water Board to identify, on an annual basis, dischargers of storm water that have not obtained coverage under the General Permit.

Pursuant to Water Code section 13399.30(a)(2), the Regional Water Board is required to provide a notice (NNC) to any person that discharges, proposes to discharge, or is suspected by the Regional Water Board of discharging storm water associated with industrial activity without coverage under the General Permit. A discharger is required to submit a notice of intent to obtain coverage to the Regional Water Board within 30 days from the date on which the first NNC is issued.
24. Pursuant to Water Code 13399.30(b), the Regional Water Board's Executive Officer is required to send a second NNC to a discharger that fails to submit the

appropriate notice of intent to the Regional Water Board¹ within 30 days from the date on which the first NNC is sent pursuant to 13399.30(a).

25. Pursuant to Water Code section 13399.30(c)(2), if a discharger fails to submit the required notice of intent to the Regional Water Board within 60 days from the date on which the first NNC was sent, the Regional Water Board is required to impose the penalties described in subdivisions (a) and (d) of Water Code section 13399.33.
26. The Discharger is an industrial facility that engages in plastic material manufacturing; an industrial activity described in SIC code 2821. For the reasons stated above, storm water discharges from the Discharger's facility must be covered under the General Permit. The Regional Water Board provided the Discharger with the two required NNCs. The Discharger did not comply with the General Permit recertification requirement until December 17, 2015. Therefore, pursuant to Water Code section 13399.30(c)(2), the Regional Water Board is required to impose the penalties proposed herein.

PROPOSED MANDATORY MINIMUM PENALTIES AND ASSESSMENT OF COSTS

27. Pursuant to Water Code section 13399.33(a)(1), the Regional Water Board is required to administratively impose a penalty in an amount that is not less than five thousand dollars (\$5,000) per year of noncompliance or fraction thereof against a discharger who fails to submit the required notice of intent in accordance with Water Code section 13399.30. The Regional Water Board is required to impose this mandatory minimum penalty unless it makes express findings setting forth the reasons for its failure to do so, based on the specific factors required to be considered pursuant to 13399.33(a)(2).
28. Water Code section 13399.33(d) requires the recovery of costs incurred by the Regional Water Board for enforcement actions against dischargers who fail to submit the required NOI in accordance with Water Code section 13399.30.
29. Based on the non-completion of the recertification process by August 14, 2015, the Discharger is alleged to have violated the Water Code section 13399.30 for 126 days (from August 14, 2015 to December 17, 2015, the recertification date identified in SMARTS). Staff spent approximately ten (10) hours for this enforcement action resulting in total Staff costs of \$1,500 (10 hrs @ \$150/hr = \$1,500).
30. Pursuant to Water Code section 13399.33(a)(1) and (d), the mandatory minimum penalty amount is \$6,500 (\$5,000 mandatory minimum penalty + \$1,500 mandatory recovery of costs).

¹ The General Permit instructs dischargers of storm water to submit the required notice of intent to the State Water Resources Control Board, not the Regional Water Board.

31. Issuance of this Complaint is an enforcement action and is therefore exempt from the provisions of the California Environmental Quality Act (Pub. Res. Code section 21000 et seq.) pursuant to title 14, California Code of Regulations sections 15308 and 15321, subdivision (a), paragraph (2).

WAIVER OF HEARING

The Discharger may waive its right to a hearing. If the Discharger chooses to do so, it is required to sign the enclosed Waiver Form and return it, together with a check for **\$6,500**. **Indicate "R8-2016-0013" on the check and make it** payable to the Waste Discharge Permit Fund. Send the check to the following address:

State Water Resources Control Board
Division of Administrative Services
Accounting Branch
P.O. Box 1888
Sacramento, CA 95814

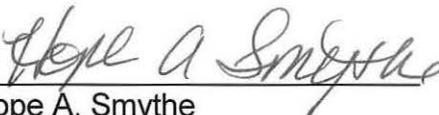
The waiver and a copy of the check shall also be mailed to the Regional Water Board at the following address:

Santa Ana Regional Water Quality Control Board
3737 Main Street, Suite 500
Riverside, CA 92501-3348
Attention: Michelle Beckwith

If the Discharger waives its right to a hearing and pays the assessed amount, the Regional Water Board may not hold a hearing regarding this Complaint.

If you have any questions, please contact Michelle Beckwith at (951) 782-4433. For legal questions, contact Naomi Kaplowitz, Office of Enforcement, at (916) 341-5677.

1/25/16
Date


Hope A. Smythe
Division Chief
Regional Water Board Prosecution Team



EDMUND G. BROWN JR.
GOVERNOR



MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

Santa Ana Regional Water Quality Control Board

California Regional Water Quality Control Board
Santa Ana Region

HEARING PROCEDURE
FOR MANDATORY MINIMUM PENALTY COMPLAINT
NO. R8-2016-0013
ISSUED TO
Modified Plastics Inc
1240 East Glenwood Place
Santa Ana, CA 92707
Orange County

SCHEDULED FOR APRIL 22, 2016

PLEASE READ THIS HEARING PROCEDURE CAREFULLY. FAILURE TO COMPLY WITH THE DEADLINES AND OTHER REQUIREMENTS CONTAINED HEREIN MAY RESULT IN THE EXCLUSION OF YOUR DOCUMENTS AND/OR TESTIMONY.

Background

On January 25, 2016, the Division Chief, acting as head of the Santa Ana Regional Water Quality Control Board (Regional Board) Prosecution Team, issued a Mandatory Minimum Penalty Complaint (Complaint) pursuant to California Water Code (Water Code) Section 13323 against Modified Plastics Inc (Modified Plastics) alleging that it violated Water Code Section 13399.30(a)(2) and the State's General Permit for Storm Water Discharges Associated with Industrial Activity, Order No. 2014-0057-DWQ, NPDES No. CAS000001 (General Permit) by failing to recertify under the General Permit to discharge storm water associated with industrial activity.

The Complaint proposes that the Regional Board impose a mandatory minimum penalty in the amount of **six thousand five hundred dollars (\$6,500)** pursuant to Water Code Section 13399.33. Unless Modified Plastics pays the proposed liability, a hearing will be held before the Regional Board during its **April 22, 2016** meeting.

Purpose of Hearing

The purpose of the hearing is to consider relevant evidence and testimony regarding the Complaint and any proposed Order. At the hearing, the Regional Board will consider whether to issue an administrative civil liability order assessing the proposed liability, or a higher or lower amount, or reject the proposed liability.

The public hearing will be held on **April 22, 2016**, and will commence no earlier than 9:00 a.m. or as soon thereafter as practical, or as announced in the Regional Board meeting agenda. The meeting will be held at the Orange County Sanitation District, 10844 Ellis Avenue in the city of Fountain Valley.

Any proposed Order and an agenda for the meeting will be issued at least ten days before the meeting and posted on the Regional Board's web page at:

http://www.waterboards.ca.gov/santaana/board_info/agendas/

Hearing Procedure

The hearing will be conducted in accordance with this Hearing Procedure, which has been approved by the Board Chair for the adjudication of such matters. The procedures governing adjudicatory hearings before the Regional Board may be found at California Code of Regulations, title 23, section 648 et seq., and are available at:

<http://www.waterboards.ca.gov>

Copies will be provided upon request. In accordance with Section 648(d), any procedure not provided by this Hearing Procedure is deemed waived. Except as provided in Section 648(b) and herein, Chapter 5 of the Administrative Procedures Act (Gov. Code, § 11500 et seq.) does not apply to this hearing.

Modified Plastics shall attempt to resolve objections to this Hearing Procedure with the Prosecution Team BEFORE submitting objections to the Advisory Team.

Separation of Prosecutorial and Advisory Functions

To help ensure the fairness and impartiality of this proceeding, the functions of those who will act in a prosecutorial role by presenting evidence for consideration by the Board (the Prosecution Team) have been separated from those who will provide legal and technical advice to the Board (the Advisory Team). Members of the Advisory Team are: Kurt Berchtold, Executive Officer and David Rice, Staff Counsel. Members of the Prosecution Team are: Hope Smythe, Division Chief; Michelle Beckwith, Senior Environmental Scientist, and Naomi Kaplowitz, Staff Counsel.

Any members of the Advisory Team who normally supervise any members of the Prosecution Team are not acting as their supervisors in this proceeding, and vice versa. Other members of the Prosecution Team act or have acted as advisors to the Regional Board in other, unrelated matters, but they are not advising the Regional Board in this proceeding. Members of the Prosecution Team have not had any ex parte communications with the members of the Regional Board or the Advisory Team regarding this proceeding.

Hearing Participants

Participants in this proceeding are designated as either "Designated Parties" or "Interested Persons." Designated Parties may present evidence and cross-examine witnesses and are subject to cross-examination. Interested Persons may present non-evidentiary policy statements, but may not cross-examine witnesses and are not subject to cross-examination. Interested Persons generally may not present evidence (e.g., photographs, eye-witness testimony, monitoring data). At the hearing, both Designated Parties and

Interested Persons may be asked to respond to clarifying questions from the Regional Board, staff, or others, at the discretion of the Board Chair.

The following participants are hereby designated as Designated Parties in this proceeding:

1. Regional Board Prosecution Team
2. Modified Plastics

Requesting Designated Party Status

Persons who wish to participate in the hearing as a Designated Party must request designated party status by submitting a request in writing so that it is received no later than the deadline listed under "Important Deadlines" below. The request shall include an explanation of the basis for status as a Designated Party (i.e., how the issues to be addressed at the hearing affect the person, the need to present evidence or cross-examine witnesses), along with a statement explaining why the parties listed above do not adequately represent the person's interest. Any objections to these requests for designated party status must be submitted so that they are received no later than the deadline listed under "Important Deadlines" below.

Primary Contacts

Advisory Team:

David Rice, Staff Counsel
State Water Resources Control Board
P.O. Box 100, Sacramento, CA 95812
Phone: (916) 341-5182
David.Rice@waterboards.ca.gov

Prosecution Team:

Michelle Beckwith, Senior Environmental Scientist
Regional Water Quality Control Board – Santa Ana Region
3737 Main Street, Suite 500, Riverside, CA 92501
Phone: (951) 782-4433
Michelle.Beckwith@waterboards.ca.gov

Modified Plastics:

Attilio Giovanatto
Modified Plastics
1240 East Glenwood Place
Santa Ana, CA 92707
attilio@modifiedplastics.com

Ex Parte Communications

Designated Parties and Interested Persons are forbidden from engaging in ex parte communications regarding this matter. An ex parte communication is a written or verbal

communication related to the investigation, preparation, or prosecution of the Complaint between a Designated Party or an Interested Person and a Board Member or a member of the Board's Advisory Team (see Gov. Code, § 11430.10 et seq.). However, if the communication is copied to all other persons (if written) or is made in a manner open to all other persons (if verbal), then the communication is not considered an ex parte communication. Communications regarding non-controversial procedural matters are also not considered ex parte communications and are not restricted.

Hearing Time Limits

To ensure that all participants have an opportunity to participate in the hearing, the following time limits shall apply: each Designated Party shall have a combined 20 minutes to present evidence (including evidence presented by witnesses called by the Designated Party), to cross-examine witnesses (if warranted), and to provide a closing statement. Each Interested Person shall have 3 minutes to present a non-evidentiary policy statement. Participants with similar interests or comments are requested to make joint presentations, and participants are requested to avoid redundant comments. Participants who would like additional time must submit their request to the Advisory Team so that it is received no later than the deadline listed under "Important Deadlines" below. Additional time may be provided at the discretion of the Advisory Team (prior to the hearing) or the Board Chair (at the hearing) upon a showing that additional time is necessary. Such showing shall explain what testimony, comments, or legal argument requires extra time, and why it could not have been provided in writing by the applicable deadline.

A timer will be used, but will not run during Board questions or the responses to such questions, or during discussions of procedural issues.

Submission of Evidence and Policy Statements

The Prosecution Team and all other Designated Parties (including Modified Plastics) must submit the following information in advance of the hearing:

1. All documentary evidence and exhibits to be offered at the hearing.
2. All legal and technical arguments or analysis.
3. The name of each witness, if any, whom the Designated Party intends to call at the hearing, the subject of each witness' proposed testimony, and the estimated time required by each witness to present direct testimony. Alternatively, the testimony of any witness may be presented by declaration, so long as that witness will be available for cross-examination at the hearing.
4. The qualifications of each expert witness, if any.

Prosecution Team: The Prosecution Team's information must include the legal and factual basis for its claims against Modified Plastics; a list of all evidence on which the Prosecution Team relies, which must include, at a minimum, all documents cited in the Complaint, Staff Report, or other material submitted by the Prosecution Team; and the witness information required under items 3-4 for all witnesses, including Board staff.

Designated Parties (including Modified Plastics): All Designated Parties shall submit comments regarding the Complaint along with any additional supporting evidence not cited by the Regional Board's Prosecution Team no later than the deadline listed under "Important Deadlines" below.

Rebuttal: Any Designated Party that would like to submit evidence, legal analysis, or policy statements to rebut information previously submitted by other Designated Parties shall submit this rebuttal information so that it is received no later than the deadline listed under “Important Deadlines” below. “Rebuttal” means evidence, analysis or comments offered to disprove or contradict other submissions. Rebuttal shall be limited to the scope of the materials previously submitted. Rebuttal information that is not responsive to information previously submitted may be excluded.

Copies: For each evidentiary deadline, each Designated Party shall send one electronic copy of the above materials to each of the other Designated Parties at the address or addresses provided above by 5:00 p.m. on the deadline described above.

Interested Persons: Interested Persons who would like to submit written non-evidentiary policy statements are encouraged to submit them to the Advisory Team as early as possible, but they must be received by the deadline listed under “Important Deadlines” to be included in the Board’s agenda package. Interested Persons do not need to submit written comments in order to speak at the hearing.

Prohibition on Surprise Evidence: In accordance with California Code of Regulations, title 23, section 648.4, the Regional Board endeavors to avoid surprise testimony or evidence. Absent a showing of good cause and lack of prejudice to the parties, the Board Chair may exclude evidence and testimony that is not submitted in accordance with this Hearing Procedure. Excluded evidence and testimony will *not* be considered by the Regional Board and will not be included in the administrative record for this proceeding.

Presentations: Power Point and other visual presentations may be used at the hearing, but their content shall not exceed the scope of other submitted written material. These presentations must be provided to the Advisory Team at or before the hearing both in hard copy and in electronic format so that they may be included in the administrative record.

Witnesses: All witnesses who have submitted written testimony shall appear at the hearing to affirm that the testimony is true and correct, and shall be available for cross-examination.

Questions

Questions concerning this proceeding may be addressed to the Advisory Team attorney (contact information above).

IMPORTANT DEADLINES

All required submissions must be received by 5:00 p.m. on the respective due date.

January 25, 2016	<ul style="list-style-type: none"> ▪ Prosecution Team issues Complaint and Hearing Procedure on Modified Plastics and other parties.
February 23, 2016	<ul style="list-style-type: none"> ▪ Modified Plastics’ deadline to submit 90-Day Hearing Waiver Form and payment ▪ Objections due on Hearing Procedure. <p><u>Electronic or Hard Copies to:</u> All other Designated Parties, All known Interested Persons, Prosecution Team Attorney, Advisory Team Attorney</p> <p><u>Electronic and Hard Copies to:</u> Prosecution Team Primary Contact, Advisory Team Primary Contact</p>
March 4, 2016	<ul style="list-style-type: none"> ▪ Prosecution Team’s deadline for submission of information required under

	<p>“Submission of Evidence and Policy Statements,” above.</p> <p><u>Electronic or Hard Copies to:</u> All other Designated Parties, All known Interested Persons</p> <p><u>Electronic and Hard Copies to:</u> Advisory Team Primary Contact, Advisory Team Attorney</p>
March 7, 2016	<ul style="list-style-type: none"> ▪ Deadline to request “Designated Party” status. <p><u>Electronic or Hard Copies to:</u> All other Designated Parties, All known Interested Persons, Prosecution Team Attorney, Advisory Team Attorney</p> <p><u>Electronic and Hard Copies to:</u> Prosecution Team Primary Contact, Advisory Team Primary Contact</p>
March 9, 2016*	<ul style="list-style-type: none"> ▪ Deadline to submit opposition to requests for Designated Party status. <p><u>Electronic or Hard Copies to:</u> All other Designated Parties, All known Interested Persons, Prosecution Team Attorney, Advisory Team Attorney</p> <p><u>Electronic and Hard Copies to:</u> Prosecution Team Primary Contact, Advisory Team Primary Contact</p>
March 17, 2016	<ul style="list-style-type: none"> ▪ Advisory Team issues decision on Hearing Procedure objections. ▪ Advisory Team issues decision on requests for designated party status.
March 25, 2016*	<ul style="list-style-type: none"> ▪ Remaining Designated Parties’ (including Modified Plastics’) deadline to submit all information required under “Submission of Evidence and Policy Statements” above. This includes all written comments regarding the Order, and any rebuttal evidence, any rebuttal to legal arguments and/or policy statements, and all evidentiary objections. ▪ Interested Persons’ comments are due. <p><u>Electronic or Hard Copies to:</u> All other Designated Parties, All known Interested Persons, Prosecution Team Attorney, Advisory Team Attorney</p> <p><u>Electronic and Hard Copies to:</u> Prosecution Team Primary Contact, Advisory Team Primary Contact</p>
April 4, 2016*	<ul style="list-style-type: none"> ▪ Prosecution Team’s deadline to submit any rebuttal evidence, any rebuttal to legal arguments and/or policy statements, and all evidentiary objections. ▪ Deadline to submit requests for additional time. ▪ If rebuttal evidence is submitted, all requests for additional time (to respond to the rebuttal at the hearing) must be made within 3 working days of <i>this</i> deadline. <p><u>Electronic or Hard Copies to:</u> All other Designated Parties, All known Interested Persons, Prosecution Team Attorney, Advisory Team Attorney</p> <p><u>Electronic and Hard Copies to:</u> Prosecution Team Primary Contact, Advisory Team Primary Contact</p>
April 13, 2016* [†]	<ul style="list-style-type: none"> ▪ Prosecution Team submits Hearing binder on the parties and Board. <p><u>Electronic or Hard Copies to:</u> All other Designated Parties, All known Interested Persons</p> <p><u>Electronic and Hard Copies to:</u> Advisory Team Primary Contact, Advisory Team Attorney</p>
April 22, 2016*	Hearing

* *Modified Plastics has the right to a hearing before the Board within 90 days of receiving the Complaint, but this right can be waived (to facilitate settlement discussions, for example). By submitting the waiver form, Modified Plastics is not waiving the right to a hearing; unless a settlement is reached, the Board will hold a hearing prior to imposing civil liability. However, if the Board accepts the waiver, all deadlines marked with an “*” will be revised if a settlement cannot be reached.*

[†] *This deadline is set based on the date that the Board compiles the Board Members’ agenda packages. Any material received after this deadline will not be included in the Board Members’ agenda packages.*

Santa Ana Regional Water Quality Control Board

**WAIVER FORM
FOR MANDATORY MINIMUM PENALTY COMPLAINT NO. R8-2016-0013**

By signing this waiver, I affirm and acknowledge the following:

I am duly authorized to represent Modified Plastics Inc (Modified Plastics) in connection with Mandatory Minimum Penalty Complaint No. R8-2016-0013 (Complaint). I am informed that California Water Code section 13323, subdivision (b), states that, "a hearing before the regional board shall be conducted within 90 days after the party has been served with the complaint. The person(s) who have been issued a complaint may waive the right to a hearing."

- (OPTION 1: Check here if Modified Plastics waives the hearing requirement and will pay the liability in full.)**
- a. I hereby waive any right Modified Plastics may have to a hearing before the Regional Water Board.
 - b. I certify that Modified Plastics will remit payment for the proposed penalty in the full amount of **six thousand five hundred dollars (\$6,500)** by submitting a check made payable to the "*Waste Discharge Permit Fund*," that references "Complaint No. R8-2016-0013." Payment must be received by the Regional Water Board by **March 23, 2016** or the Regional Water Board may adopt an Order requiring payment.
 - c. I understand the payment of the above amount constitutes a proposed settlement of the Complaint, and that any settlement will not become final until after the 30-day public notice and comment period. Should the Regional Water Board receive significant new information or comments from any source (excluding the Water Board's Prosecution Team) during this comment period, the Regional Water Board's Division Chief may withdraw the complaint, return payment, and issue a new complaint. I understand that this proposed settlement is subject to approval by the Regional Water Board (or the Regional Board's delegee), and that the Regional Water Board may consider this proposed settlement in a public meeting or hearing. I also understand that approval of the settlement will result in Modified Plastics having waived the right to contest the allegations in the Complaint and the imposition of civil liability.
 - d. I understand that payment of the above amount is not a substitute for compliance with applicable laws and that continuing violations of the type alleged in the Complaint may subject the Discharger to further enforcement, including additional civil liability.

- (OPTION 2: Check here if Modified Plastics waives the 90-day hearing requirement in order to extend the hearing date and/or hearing deadlines. Attach a separate sheet with the amount of additional time requested and the rationale.)***

I hereby waive any right Modified Plastics may have to a hearing before the Regional Water Board within 90 days after service of the Complaint. By checking this box, Modified Plastics requests that the Regional Water Board delay the hearing and/or hearing deadlines so that Modified Plastics may have additional time to prepare for the hearing. It remains within the discretion of the Regional Water Board to approve the extension.

(Print Name and Title)

(Signature)

(Date)



EDMUND G. BROWN JR.
GOVERNOR

MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

Santa Ana Regional Water Quality Control Board

September 9, 2015

Modified Plastics Inc
1240 E Glenwood Pl
Santa Ana, CA 92707

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

NOTICE OF NON-COMPLIANCE: FAILURE TO COMPLY WITH THE GENERAL PERMIT FOR STORM WATER DISCHARGES ASSOCIATED WITH INDUSTRIAL ACTIVITIES, ORDER NO. 2014-0057-DWQ, NPDES NO. CAS000001 (GENERAL PERMIT) WDID NO. 8 301021297

Dear Attilio J Giovanatto:

As you are aware, NPDES Permit No. CAS000001, General Permit for Storm Water Discharges Associated with Industrial Activities (General Permit), generally prohibits the discharge of materials other than storm water from industrial sites. The General Permit requires that coverage be obtained by facilities, which have exposure of materials, products, wastes, or process to storm water runoff. Further, the General Permit requires the development and implementation of a Storm Water Pollution Prevention Plan (SWPPP), emphasizing Best Management Practices (BMP), designed to reduce/eliminate migration of sediment and other pollutants to storm drains and/or receiving waters.

On April 1, 2014, a new General Permit was adopted by the State Water Resources Control Board (State Board). As of July 1, 2015, the 1997 General Permit is no longer in effect. Existing dischargers with coverage under the 1997 General Permit were required to recertify their coverage electronically via the State Board's Storm Water Multiple Application and Report Tracking System (SMARTS).

According to State Board records, your facility located at 1240 E Glenwood Pl, in the city of Santa Ana, is regulated under the General Permit and is identified by WDID No. **8 301021297**.

Despite repeated notices informing you of the need to recertify your facility under the new General Permit, the WDID assigned to the aforementioned facility was not recertified by the July 1, 2015 deadline which was extended to August 14, 2015. **Therefore the facility's permit coverage under the 1997 General Permit has expired and is no longer valid.** To continue the facility's permit coverage, the discharger must take the following actions:

- Recertify the facility's existing Notice of Intent (NOI) under the new General Permit, and;
- Revise and submit the facility's Storm Water Pollution Prevention Plan (SWPPP) and Site Map to comply with the new General Permit requirements.

To obtain coverage under the new General Permit, the discharger's Legally Responsible Person (LRP) (as defined by Section XXI.K.4 of Order No. 2014-0057-DWQ) must register and access

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 Adult Signature Restricted Delivery \$ _____

Postmark
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Postage \$ _____
 \$ Tot Modified Plastics Inc
 \$ Attilio J Giovanatto
 \$ 1240 E Glenwood Pl
 \$ Stn Santa Ana, CA 92707
 \$ Cit 8 301021297

PS Form 3800, April 2015 PSN 7530-02-000-9047

See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Modified Plastics Inc
 Attilio J Giovanatto
 1240 E Glenwood Pl
 Santa Ana, CA 92707
 8 301021297



9590 9401 0074 5168 8188 74

2. Article Number (Transfer from service label)

7015 1520 0002 2639 0586

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *A Perez* Agent
 Addressee

B. Received by (Printed Name)

A Perez

C. Date of Delivery

9/11/15

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail®
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery
- Priority Mail Express®
- Registered Mail™
- Registered Mail Restricted Delivery
- Return Receipt for Merchandise
- Signature Confirmation™
- Signature Confirmation Restricted Delivery

PS Form 3811, April 2015 PSN 7530-02-000-9053

Domestic Return Receipt



EDMUND G. BROWN JR.
GOVERNOR

MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

Santa Ana Regional Water Quality Control Board

October 9, 2015

Modified Plastics Inc
1240 E Glenwood Pl
Santa Ana, CA 92707

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

NOTICE OF NON-COMPLIANCE: FAILURE TO COMPLY WITH THE GENERAL PERMIT FOR STORM WATER DISCHARGES ASSOCIATED WITH INDUSTRIAL ACTIVITIES, ORDER NO. 2014-0057-DWQ, NPDES NO. CAS000001 (GENERAL PERMIT) WDID NO. 8 30I021297

SECOND NOTICE

Dear Attilio J Giovanatto:

According to State Board records, your facility located at 1240 E Glenwood Pl, in the city of Santa Ana, is regulated under the General Permit and is identified by WDID No. **8 30I021297**.

On April 1, 2014, a new General Permit was adopted by the State Water Resources Control Board (State Board). As of July 1, 2015, the 1997 General Permit is no longer in effect. Existing dischargers with coverage under the 1997 General Permit were required to recertify their coverage electronically via the State Board's Storm Water Multiple Application and Report Tracking System (SMARTS). Due to a technical issue that has affected the bandwidth of the Storm Water Multiple Application and Report Tracking System (SMARTS) and has restricted access to the database, the July 1, 2015 deadline for submittals under the now expired General Permit 97-03-DWQ was extended to Friday, August 14, 2015.

A Notice of Non-Compliance was sent to Modified Plastics Inc on September 9, 2015, via certified mail, requesting that the facility recertify their permit coverage via SMARTS by October 8, 2015. To date, no response has been received. To obtain coverage under the new General Permit, the discharger's Legally Responsible Person (LRP) (as defined by Section XXI.K.4 of Order No. 2014-0057-DWQ) must register and access the State Board's SMARTS program to recertify the facility's NOI by entering the WDID and Secret Code Number (SCN) provided below.

WDID: 8 30I021297
SCN: KBGA47238

SMARTS guidance is enclosed to assist your facility's LRP in completing the recertification process.

This facility is currently in violation of the California Water Code and the federal Clean Water Act. Failure to obtain coverage under the new General Permit will result in a mandatory minimum penalty of at least \$5,000 pursuant to California Water Code Section 13399.33. You must electronically recertify your facility's NOI via SMARTS by **November 6, 2015**. Failure to

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Adult Signature Required \$ _____

Adult Signature Restricted Delivery \$ _____

Postmark
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Total \$ _____

Sent \$ _____

Street 1240 E Glenwood Pl

City Santa Ana, CA 92707

Zip 8 301021297

PS Form 3800, April 2015 PSN 7530-02-000-9047

See reverse for instructions

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

Modified Plastics Inc
 1240 E Glenwood Pl
 Santa Ana, CA 92707
 8 301021297



9590 9403 0570 5183 1987 67

2. Article Number (Transfer from service label)

7015 1520 0002 2639 5055

PS Form 3811, April 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
 Addressee

B. Received by (Printed Name) A Perez

C. Date of Delivery 10/13/15

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type
- Adult Signature
 - Adult Signature Restricted Delivery
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 - Collect on Delivery Restricted Delivery
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 - Registered Mail Restricted Delivery
 - Return Receipt for Merchandise
 - Signature Confirmation™
 - Signature Confirmation Restricted Delivery

Domestic Return Receipt

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<input type="checkbox"/> Return Receipt (electronic)	\$ _____
<input type="checkbox"/> Certified Mail Restricted Delivery	\$ _____
<input type="checkbox"/> Adult Signature Required	\$ _____
<input type="checkbox"/> Adult Signature Restricted Delivery	\$ _____
Postage	
\$	
Total Postage and Fees	
\$	

Postmark
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Sent To	<i>Robert Ester</i>
Street and Apt. No., or PO Box No.	<i>1240 East Glenwood Place</i>
City, State, ZIP+4®	<i>Santa Ana, CA. 92707</i>