



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

JUN 07 2010

Peter Nichols, President
Polychemie, Inc.
3080 Port & Harbor Drive
Bay St. Louis, Mississippi 39520

RE: Polychemie, Inc. - Executed Consent Agreement and Final Order, Docket
No. RCRA-04-2010-4008(b)

Dear Mr. Nichols:

Please find enclosed a copy of the fully executed Consent Agreement and Final Order (CA/FO) docketed RCRA-04-2010-4008(b), for Polychemie, Inc. The CAFO was effective upon filing, and payment of the civil penalty of \$75,000.00 is due within thirty (30) days of the date of filing. Payment should be made pursuant to the instructions found in Section VI. of the enclosed CA/FO.

Please do not hesitate to contact me at (404) 562-9539 with any questions concerning this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Bonnie Sawyer".

Bonnie Sawyer
Associate Regional Counsel

Enclosure

cc: John H. Johnson, Troutman Sanders LLP via e-mail

Internet Address (URL) • <http://www.epa.gov>

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**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF:) Docket Number: RCRA-04-2010-4008(b)
)
Polychemie, Inc.) Proceeding under Section 3008(a) of the
Port Bienville Industrial Park) Resource Conservation and
Road D) Recovery Act, 42 U.S.C. § 6928(a)
Bay St. Louis, Mississippi 39572)
EPA ID No.: MSR 000 005 033)
)
Respondent)

2010 JUN -7 AM 7:03
EPA REGION IV
CLAIMING CLERK

CONSENT AGREEMENT

I. NATURE OF THE ACTION

1. This is a civil administrative enforcement action, ordering compliance with the requirements of Subtitle C of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6921, et seq., and the Mississippi Code Annotated (Miss. Code Ann.) §§ 17-17-1 et seq., and 49-17-1 et seq., as amended. This action is seeking civil penalties pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), for alleged violations of RCRA and Miss. Code Ann., and regulations promulgated pursuant thereto and set forth at Title 40 of the Code of Federal Regulations (C.F.R.), Parts 260 through 270, 273, and 279; and Mississippi Hazardous Waste Management Regulations (MHWMR) Parts 260 through 270, 273 and 279.
2. *The Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, 40 C.F.R. Part 22, provide that where the parties agree to settlement of one or more causes of action before the filing of a complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a Consent Agreement and Final Order (CAFO). 40 C.F.R. §§ 22.13(b) and 22.18(b)(2).
3. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to settle this action. Accordingly, before any testimony has been taken upon the pleadings and without any admission of violation or adjudication of any issue of fact or law, and in accordance with 40 C.F.R. § 22.13(b), Complainant and Respondent have agreed to the execution of this CAFO, and Respondent hereby agrees to comply with the terms of this CAFO.

II. THE PARTIES

4. Complainant is the Chief, RCRA and OPA Enforcement and Compliance Branch, RCRA Division, Region 4, United States Environmental Protection Agency (EPA).

5. Respondent is Polychemie, Inc. (Respondent), a corporation incorporated under the laws of the State of Delaware. Respondent operates a facility located at Port Bienville Industrial Park, Road D in Pearlinton, Hancock County, Mississippi.

III. PRELIMINARY STATEMENTS

6. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), on June 27, 1984, the State of Mississippi (the State) received final authorization from EPA to carry out certain portions of the State's hazardous waste program in lieu of the federal program set forth in RCRA, including those portions recited herein. The requirements of the authorized program are found at Miss. Code Ann. §§ 17-17-1 *et seq.*, and 49-17-1 *et seq.*, as amended, and MHWMR Parts 260 through 270, 273, and 279. The MHWMR incorporates by reference EPA's RCRA regulations. Therefore, for the purpose of this CAFO, a citation hereinafter to the requirements of 40 C.F.R. Parts 260 through 270, 273 and 279 shall constitute a citation to the equivalent requirements of the MHWMR.
7. Pursuant to Section 3006(g) of RCRA, 42 U.S.C. § 6926(g), the requirements established by the Hazardous and Solid Waste Amendments of 1984 (HSWA), Pub. L. 98-616, are immediately effective in all states regardless of their authorization status and are implemented by EPA until the State is granted final authorization with respect to those requirements.
8. Pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, on April 25, 2005, the State received final authorization from EPA to carry out the organic air emission standards program in lieu of the federal program set forth in RCRA. The requirements of the authorized State program are found at MHWMR Part 265, Subparts AA, BB and CC.
9. Although EPA has granted the State authority to enforce its own hazardous waste program, EPA retains jurisdiction and authority to initiate an independent enforcement action pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), to address violations of the requirements of the authorized state program. This authority is exercised by EPA in the manner set forth in the Memorandum of Agreement between EPA and the State.
10. Pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), Complainant gave written notice of this action to the State of Mississippi before the issuance of this CAFO.
11. Section 3002(a) of RCRA, 42 U.S.C. § 6922(a), and Miss. Code Ann. § 17-17-27(1), sets forth standards applicable to generators of hazardous waste. The implementing regulations for these requirements are found in 40 C.F.R. Part 262.
12. Section 3004 of RCRA, 42 U.S.C. § 6922, and Miss. Code Ann. § 17-17-27(1), sets forth standards applicable to owners and operators of hazardous waste treatment, storage, and disposal facilities. The implementing regulations for these requirements are found at 40 C.F.R. Part 264.
13. Section 3005 of RCRA, 42 U.S.C. § 6925, and Miss. Code Ann. § 17-17-27(1), sets forth the requirement that a facility treating, storing, or disposing of hazardous waste must have a

permit or interim status. The implementing regulations for this requirement are found at 40 C.F.R. Parts 264 (permitted) and 265 (interim status).

14. Pursuant to 40 C.F.R. § 261.2, a “solid waste” is any discarded material that is not otherwise excluded by regulation.
15. Pursuant to 40 C.F.R. § 261.3, a solid waste is a “hazardous waste” if it is not excluded from regulation as a hazardous waste under 40 C.F.R. § 261.4(b) and it meets any of the criteria set out in this section.
16. Pursuant to 40 C.F.R. § 260.10, a “generator” is defined as any person, by site, whose act or process produces hazardous waste identified or listed in 40 C.F.R. § 261.3.
17. Pursuant to 40 C.F.R. § 261.21, a solid waste that exhibits the characteristic of ignitibility is a hazardous waste with the EPA Hazardous Waste Number of D001.
18. Pursuant to 40 C.F.R. § 260.10, a tank system is defined as a hazardous waste storage or treatment tank and its associated equipment and containment system.
19. Pursuant to 40 C.F.R. § 262.20(a)(1), a generator who transports, or offers for transport a hazardous waste for offsite treatment, storage, or disposal must prepare a manifest.
20. Pursuant to 40 C.F.R. § 262.23(a)(1), a generator must sign a manifest certification by hand.
21. Pursuant to 40 C.F.R. § 262.34(a)(1)(i), a generator may accumulate hazardous waste on-site in containers for 90 days or less without a permit or without having interim status, provided that the generator complies with the applicable requirements of 40 C.F.R. Part 265, Subparts I, AA, BB and CC.
22. Pursuant to 40 C.F.R. § 262.34(a)(1)(ii), a generator may accumulate hazardous waste on-site in a tank for 90 days or less without a permit or without having interim status, provided that the generator complies with the applicable requirements of 40 C.F.R. Part 265, Subparts J, AA, BB and CC.
23. Pursuant to 40 C.F.R. § 262.34(a)(2), a generator may accumulate hazardous waste on-site for ninety (90) days or less without a permit or interim status, provided the date upon which each period of accumulation begins is clearly marked and visible for inspection on each tank and container (51 Fed. Reg. 10146, 10160, March 24, 1986).
24. Pursuant to 40 C.F.R. § 262.34(a)(4), a generator may accumulate hazardous waste on-site for ninety (90) days or less without a permit or interim status provided that, among other things, the generator complies with the requirements for owners or operators in Subparts C and D in 40 C.F.R. Part 265.
25. Pursuant to 40 C.F.R. § 265.52(d), the owner or operator must have a contingency plan for the facility that lists the name, addresses, and phone numbers of all persons qualified to act as emergency coordinator.

26. Pursuant to 40 C.F.R. § 265.174, the owner or operator must inspect areas where containers are stored. Moreover, the owner or operator must look for leaking containers and for deterioration of containers caused by corrosion or other factors.
27. Pursuant to 40 C.F.R. § 265.193(f), the owner or operator of a tank system must provide full secondary containment for ancillary equipment except for: aboveground piping (exclusive of flanges, joints, valves and connection) that is visually inspected for leaks daily; welded flanges, welded joints, and welded connections that are visually inspected for leaks daily; and sealless or magnetic coupling pumps and sealless valves that are visually inspected for leaks daily.
28. Pursuant to 40 C.F.R. § 265.195, the owner or operator of a tank system must perform inspections at least once each operating day (where present) in accordance with the applicable provisions of this section, which includes the inspections under 40 C.F.R. § 265.193(f) for ancillary equipment that does not have secondary containment, and the owner or operator must document such inspections.
29. Pursuant to 40 C.F.R. § 264.1031, “in light liquid service” means that the piece of equipment contains or contacts a hazardous waste stream where the vapor pressure of one or more of the organic components in the stream is greater than 0.3 kilopascals (kPa) at 20° Celsius (C), the total concentration of the pure organic components having a vapor pressure greater than 0.3 kPa at 20° C is equal to or greater than 20 percent by weight, and the fluid is a liquid at operating conditions.
30. Pursuant to 40 C.F.R. § 265.1050(b), the requirements of 40 C.F.R. Part 265, Subpart BB, apply to equipment that contains or contacts hazardous wastes with organic concentrations of at least 10 percent by weight that are managed in a unit subject to the permitting requirements of 40 C.F.R. Part 270, or a unit that is exempt from permitting under the provisions of 40 C.F.R. § 262.34(a) and is not a recycling unit under the provisions of 40 C.F.R. § 261.6.
31. Pursuant to 40 C.F.R. § 265.1050(c), the owner or operator must mark each piece of equipment to which Subpart BB applies in such a manner that it can be distinguished readily from other pieces of equipment.
32. Pursuant to 40 C.F.R. § 265.1057, each valve in light liquid service must be monitored monthly to detect leaks by the methods and procedures specified in 40 C.F.R. § 265.1063(b).
33. Pursuant to 40 C.F.R. § 265.1090(b)(2)(i), the owner and operator using a fixed roof to comply with the Tank Level 1 control requirements specified in 40 C.F.R. § 265.1085(c) must prepare and maintain records for each determination for the maximum organic vapor pressure of the hazardous waste in the tank performed. The records must include the date and time the samples were collected, the analysis method used, and the analysis results.
34. Pursuant to 40 C.F.R. § 273.9, a “small quantity handler of universal waste” is defined as a universal waste handler who does not accumulate 5,000 kilograms or more of universal wastes at any time.

35. Pursuant to 40 C.F.R. § 273.14(e), a small quantity handler of universal waste lamps must label or mark each lamp or container or package in which such lamps are contained with one on the following phrases: “Universal Waste—Lamp(s),” or “Waste Lamp(s),” or “Used Lamp(s).”
36. Pursuant to 40 C.F.R. § 273.15(c), a small quantity handler of universal waste must be able to demonstrate the length of time the universal waste has been accumulated from the date it becomes a waste or is received.

IV. EPA ALLEGATIONS AND DETERMINATIONS

37. Respondent is a “person” as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), and 40 C.F.R. § 260.10.
38. Respondent is the “owner” and “operator” of a “facility” located at Port Bienville Industrial Park, Road D in Pearlington, Mississippi, as those terms are defined in 40 C.F.R. § 260.10.
39. Respondent began operations at the Facility in 1998 and was assigned the site-specific EPA ID number MSR 000 005 033 by the Mississippi Department of Environmental Quality (MDEQ).
40. On June 16, 2008, representatives of the EPA and MDEQ performed a RCRA compliance evaluation inspection (CEI) of the Facility.
41. On December 9, 2008, Respondent submitted information in response to a Request for Information from EPA made pursuant to Section 3007 of RCRA, 42 U.S.C. § 6927.
42. On May 7, 2009, EPA issued a Notice of Violation (NOV) alleging certain violations of RCRA based upon the CEI and response to the Request for Information.
43. Respondent manufactures water-soluble polymers that are used in municipal and industrial wastewater treatment operations.
44. The Facility production processes include an Ethylene Dichloride (EDC)/Ammonia Process, a Polyamines Process, a Polydiallyldimethyl-ammonium Chloride (DADMAC) Monomer Process, and a DADMAC Polymer Process.
45. Respondent’s DADMAC monomer production process generates a solid waste, “Allyl Chloride Waste.”
46. The Allyl Chloride Waste from the DADMAC monomer production process exhibits the characteristic of ignitability under 40 C.F.R. § 261.21, and is therefore a hazardous waste (D001).
47. Respondent is a “generator” as defined in 40 C.F.R. § 260.10.
48. Based on the records reviewed during the CEI, EPA and MDEQ representatives determined that Respondent did not sign the certification on a manifest dated September 22, 2006, by hand.

49. Complainant alleges that Respondent failed to sign the certification on a manifest dated September 22, 2006, by hand in violation of 40 C.F.R. § 262.23(a)(1).
50. Based on the records reviewed during the CEI, EPA and MDEQ representatives determined that Respondent did not have weekly inspection records that demonstrated that the container storage area was inspected each week in 2007.
51. Complainant alleges that Respondent failed to conduct weekly inspections of the container storage area each week in 2007 as required by 40 C.F.R. Part 265, Subpart I. Therefore, Respondent was in violation of 40 C.F.R. § 265.174, as incorporated by 40 C.F.R. § 262.34(a)(1)(i).
52. Respondent manages the Allyl Chloride Waste in a "tank system" as that term is defined in 40 C.F.R. § 260.10.
53. Respondent's hazardous waste tank system consists of:
 - a. One 1,700 gallon above ground storage tank (T-830);
 - b. The metal pipeline that transfers hazardous waste from the Organic Decanter Vessel (V-804) to T-830;
 - c. The metal pipeline that transfers hazardous waste from V-804 to the tank truck loading area, which is exempt from RCRA regulation because it is in light liquid service for less than 300 hours a year; and
 - d. The metal pipeline that transfers hazardous waste from V-804 to the solvent distillation unit feed tank.
54. The Allyl Chloride Waste transferred from V-804 has an average volatile organic concentration greater than 500 parts per million. Therefore, tank T-830 is subject to the requirements in 40 C.F.R. §§ 265.1083-1085, and 40 C.F.R. §§ 265.1088-1090.
55. The Allyl Chloride Waste transferred from V-804 has an organic concentration greater than 10 percent. Therefore, the tank system pipeline is subject to the requirements in 40 C.F.R. 265, Subpart BB.
56. Over 20 percent of the organic components in the Allyl Chloride Waste transferred from V-804 have a vapor pressure greater than 0.3 kPa at 20° C. Therefore, Respondent's hazardous waste tank system operates in light liquid service.
57. During the CEI, EPA and MDEQ representatives determined that Respondent failed to adequately inspect hazardous waste tank T-830, along with its ancillary piping, at least once each operating day and failed to adequately document such inspections. EPA and MDEQ representatives also determined that a section of ancillary piping did not have secondary containment. This section of piping is aboveground and any flanges, joints, and connections are welded such that this section of piping would not require secondary containment if appropriate daily inspections occurred.
58. Complainant alleges that Respondent failed to adequately inspect T-830 and its ancillary piping at least once each operating day and to document such inspections in accordance

with 40 C.F.R. Part 265, Subpart J. Therefore, Respondent was in violation of 40 C.F.R. §§ 265.193(f) and 265.195, as incorporated by 40 C.F.R. § 262.34(a)(1)(ii).

59. At the time of the CEI, EPA and MDEQ representatives determined that Respondent failed to:
 - a. Mark each piece of equipment to which 40 C.F.R. Part 265, Subpart BB applies in such a manner that it can be distinguished readily from other pieces of equipment; and
 - b. Perform monthly leak detection monitoring of the valves in light liquid service.
60. Complainant alleges that Respondent failed to mark each piece of equipment to which 40 C.F.R. Part 265, Subpart BB applies in such a manner that it can be distinguished readily from other pieces of equipment. Therefore, Respondent was in violation of 40 C.F.R. § 265.1050(c), as incorporated by 40 C.F.R. § 262.34(a)(1)(ii).
61. Complainant alleges that Respondent failed to conduct monthly monitoring to detect leaks on equipment to which 40 C.F.R. Part 265, Subpart BB applies, using the methods and procedures specified in 40 C.F.R. § 265.1063(b), for all valves in light liquid service. Therefore, Respondent was in violation of 40 C.F.R. § 265.1057, as incorporated by 40 C.F.R. § 262.34(a)(1)(ii).
62. Respondent's response to the Information Request, which was dated December 9, 2008, provided documentation that the maximum vapor pressure was determined on January 28, 2005, prior to startup of tank T-830, but did not include the time samples were collected.
63. Complainant alleges that Respondent failed to record the time that samples were collected for Tank T-830 as required by 40 C.F.R. Part 265, Subpart CC. Therefore, Respondent violated 40 C.F.R. § 265.1090(b)(2)(i), as incorporated by 40 C.F.R. § 262.34(a)(1)(ii).
64. At the time of the CEI, EPA and MDEQ representatives determined that Respondent did not mark hazardous waste tank T-830 with the start date for which hazardous waste accumulation began.
65. Complainant alleges that Respondent violated 40 C.F.R. § 262.34(a)(2), by failing to clearly mark its hazardous waste storage tank with an accumulation start date.
66. At the time of the CEI, EPA and MDEQ representatives determined Respondent's contingency plan did not include the home addresses of the emergency coordinators listed in its contingency plan.
67. Complainant alleges that Respondent failed to list the office and home addresses of all persons qualified to act as an emergency coordinator as required by 40 C.F.R. Part 265, Subpart D. Therefore, Respondent violated 40 C.F.R. § 265.52(d), as incorporated by 40 C.F.R. § 262.34(a)(4).
68. As a result of the violations alleged in paragraphs 51, 58, 60, 61, 63, 65, and 67, Complainant alleges that Respondent failed to satisfy the requirements necessary for a

generator to accumulate hazardous waste on-site for 90 days or less without a permit or interim status pursuant to 40 C.F.R. § 262.34(a). Therefore, Complainant alleges that Respondent was storing hazardous waste without a permit in violation of Section 3005(a) of RCRA, 42 U.S.C. § 6925.

69. Respondent, as a result of facility operations, is a “small quantity handler of universal waste” as defined in 40 C.F.R. § 273.9.
70. At the time of the CEI, EPA and MDEQ representatives determined that Respondent failed to adequately label and date a container of universal waste lamps.
71. Complainant alleges that Respondent was in violation of 40 C.F.R. §§ 273.14(e) and 273.15(c), by failing to label and date universal waste lamp containers.

V. TERMS OF AGREEMENT

Based on the foregoing Allegations and Determinations, the parties agree to the following:

72. For purposes of this CAFO, Respondent admits the jurisdictional allegations set forth above.
73. Respondent neither admits nor denies the factual allegations or legal conclusions set forth above.
74. Respondent waives any right to contest the allegations and its right to appeal the proposed Final Order accompanying the Consent Agreement.
75. Respondent waives its right to challenge the validity of this CAFO and the settlement of the matters addressed in this CAFO based on any issue related to the Paperwork Reduction Act.
76. Respondent waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during any discussions with, or to be served with and reply to, any memorandum or communication addressed to EPA officials where the purpose of such discussion, memorandum or communication is to persuade such official to accept and issue this CAFO.
77. The parties agree that the settlement of this matter is in the public interest and that this CAFO is consistent with the applicable requirements of RCRA.
78. The parties agree that compliance with the terms of this CAFO shall resolve the violations of RCRA alleged in this CAFO.
79. The parties agree that they will pay their own costs and attorney’s fees.

VI. CIVIL PENALTY

Respondent consents to the payment of a civil penalty in the amount of Seventy-Five Thousand Dollars (\$75,000), payable within thirty days (30) calendar days of this CAFO.

80. Payments shall be made by cashier's check, certified check, by electronic funds transfer (EFT), or by Automated Clearinghouse (ACH) (also known as REX or remittance express). If paying by check, the check shall be payable to: **Treasurer, United States of America**, and the facility name and the docket number for this matter shall be referenced on the face of the check. Payments shall be addressed to:

United States Environmental Protection Agency
Fines and Penalties
Cincinnati Financial Center
P.O. Box 979077
St. Louis, Missouri 631971-9000

If the Respondent sends payment by non-U.S. Postal express mail delivery, the payment shall be sent to:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines & Penalties
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, Missouri 63101
(314) 418-1028

If paying by EFT, the Respondent shall transfer the payment to:

Federal Reserve Bank of New York
ABA: 021030004
Account Number: 68010727
SWIFT address: FRNYUS33
33 Liberty Street
New York, New York 10045
Field Tag 4200 of the Fedwire message should read:
"D 68010727 Environmental Protection Agency"

If paying by ACH, the Respondent shall remit payment to:

PNC Bank
ABA: 051036706
Account Number: 310006
CTX Format Transaction Code 22 – checking
Environmental Protection Agency
808 17th Street NW
Washington, District of Columbia 20074
Contact: Jesse White, (301) 887-6548

Respondent shall submit a copy of the payment to the following addressees:

Patricia A. Bullock
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

and to:

Larry L. Lamberth, Chief
South Enforcement and Compliance Section
RCRA and OPA Enforcement and Compliance Branch
RCRA Division
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

81. If Respondent fails to remit the civil penalty as agreed to herein, EPA is required to assess interest and penalties on debts owed to the United States and a charge to cover the costs of processing and handling the delinquent claim. Interest, at the statutory judgment rate provided for in 31 U.S.C. § 3717, will therefore begin to accrue on the civil penalty if not paid within thirty (30) calendar days after the effective date of this Consent Agreement. Pursuant to 31 U.S.C. § 3717, Respondent must pay the following amounts on any amount overdue:
- a. Interest. Any unpaid portion of a civil penalty must bear interest at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1). Interest will therefore begin to accrue on a civil penalty or stipulated penalty if it is not paid by the last date required. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 4 C.F.R. § 102.13(c).
 - b. Monthly Handling Charge. Respondent must pay a late payment handling charge of \$15.00 on any late payment, with an additional charge of \$15.00 for each subsequent thirty (30) calendar day period over which an unpaid balance remains.
 - c. Non-Payment Penalty. On any portion of a civil penalty more than ninety (90) calendar days past due, Respondent must pay a non-payment penalty of six percent per annum, which will accrue from the date the penalty payment became due and is not paid. This non-payment is in addition to charges which accrue or may accrue under subparagraphs (a) and (b).
82. Penalties paid pursuant to this CAFO are not deductible for federal purposes under 26 U.S.C. § 162(f).

VII. PARTIES BOUND

83. This CAFO shall apply to and be binding upon Respondent and its successors and assigns. Respondent shall cause its officers, directors, employees, agents, and all persons, including independent contractors, contractors, and consultants acting under or for Respondent, to comply with the provisions hereof in connection with any activity subject to this CAFO.
84. No change in ownership, partnership, corporate or legal status relating to the facility will in any way alter Respondent's obligations and responsibilities under this CAFO.
85. The undersigned representative of Respondent hereby certifies that she or he is fully authorized to enter into the terms and conditions of this CAFO and to execute and legally bind Respondent to this CAFO.

VIII. RESERVATION OF RIGHTS

86. Complainant reserves the right to take enforcement action against Respondent for any future violations of RCRA and its implementing regulations and to enforce the terms and conditions of this CAFO.
87. Except as expressly provided herein, nothing in this CAFO shall constitute or be construed as a release from any claim (civil or criminal), cause of action, or demand in law or equity for any liability Respondent may have arising out of or relating in any way to the generation, storage, treatment, handling, transportation, release or disposal of any hazardous constituents, hazardous substances, hazardous wastes, pollutants or contaminants found at, taken to, or taken from Respondent's facility.
88. Notwithstanding any other provisions of the CAFO, an enforcement action may be brought pursuant to Section 7003 of RCRA, 42 U.S.C. § 6973, or other statutory authority, should EPA find that the future handling, storage, treatment, transportation, or disposal of solid waste or hazardous waste at Respondent's facility may present an imminent and substantial endangerment to human health or the environment.
89. This CAFO may be amended or modified only by written agreement executed by both EPA and Respondent.
90. The headings in this CAFO are for convenience of reference only and shall not affect interpretation of this CAFO.

IX. OTHER APPLICABLE LAWS

91. All actions required to be taken pursuant to this CAFO shall be undertaken in accordance with the requirements of all applicable local, state and Federal laws and regulations. Respondent shall obtain or cause its representatives to obtain all permits and approvals necessary under such laws and regulations.

X. SERVICE OF DOCUMENTS

92. A copy of any legal documents that Respondent files in this action should be sent to the following attorney who represents EPA in this matter and who is authorized to receive service for EPA in this proceeding:

Bonnie Sawyer, Associate Regional Counsel
U.S. Environmental Protection Agency, Region 4
Sam Nunn Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, Georgia 30303
(404) 562-9539

93. A copy of any documents that Complainant files in this action shall be sent to the following person who represents Respondent in this matter and who is authorized to receive service for Respondent in this proceeding:

Peter Nichols
President
Polychemie, Inc.
3080 Port & Harbor Drive
Bay St. Louis, Mississippi 39520

XI. SEVERABILITY

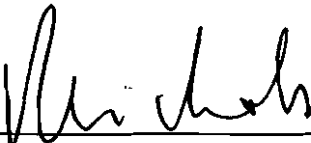
94. It is the intent of the parties that the provisions of this CAFO are severable. If any provision or authority of this CAFO or the application of this CAFO to any party or circumstances is held by any judicial or administrative authority to be invalid or unenforceable, the application of such provisions to other parties or circumstances and the remainder of the CAFO shall remain in force and shall not be affected thereby.

XII. EFFECTIVE DATE

95. The effective date of this CAFO shall be the date on which the CAFO is filed with the Regional Hearing Clerk.

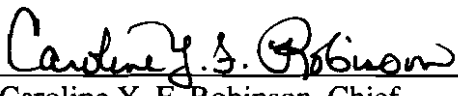
AGREED AND CONSENTED TO:

Polychemie, Inc.

By: 
Peter Nichols
President

Dated: May 17th 2010

U.S. Environmental Protection Agency

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

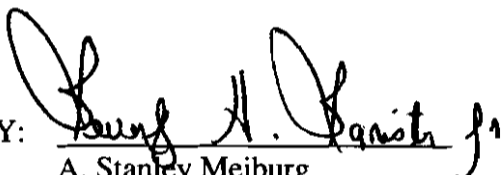
Dated: 5/27/2010

Bay St. Louis, Mississippi 39572)
EPA ID No.: MSR 000 005 033)
Respondent)
_____)

FINAL ORDER

The foregoing Consent Agreement is hereby approved, ratified and incorporated by reference into this Final Order in accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, 40 C.F.R. Part 22. The Respondent is hereby ORDERED to comply with all of the terms of the foregoing Consent Agreement effective immediately upon filing of this Consent Agreement and Final Order with the Regional Hearing Clerk. This Order disposes of this matter pursuant to 40 C.F.R. §§ 22.18 and 22.31.

BEING AGREED, IT IS SO ORDERED this 3rd day of June, 2010.

BY: 
A. Stanley Meiburg
Acting Regional Administrator
EPA Region 4

CERTIFICATE OF SERVICE

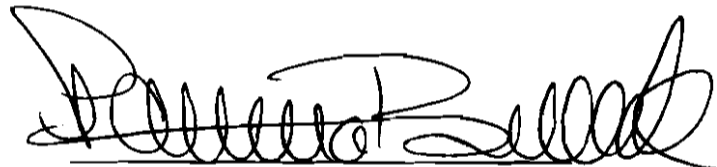
I hereby certify that I have this day served a true and correct copy of the foregoing
Consent Agreement and the attached Final Order (CAFO), in the Matter of Polychemie, Inc.,
Docket Number: RCRA-04-2010-4008(b), on the parties listed below in the manner indicated:

Bonnie Sawyer (Via EPA's internal mail)
OEA - 13th Floor
U.S. Environmental Protection Agency, Region 4
Sam Nunn Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

Quantindra Smith (Via EPA's internal mail)
RCRA and OPA Enforcement and Compliance Branch
RCRA Division
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

Peter Nichols (Via Certified Mail- Return Receipt Requested)
President
Polychemie, Inc.
3080 Port & Harbor Drive
Bay St. Louis, Mississippi 39520

Date 6-7-10



Patricia A. Bullock
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303
(404) 562-9511