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UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 9

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U.S. EPA REGION IX  
REGIONAL HEARING CLERK

In the Matter of:

Polyclad Laminates, Inc.  
40 Industrial Park Drive  
Franklin, New Hampshire 03235

Respondent

Docket No. EPCRA-09-2007-0024

CONSENT AGREEMENT AND FINAL

ORDER PURSUANT TO 40 C.F.R.  
§§ 22.13 AND 22.18

I. CONSENT AGREEMENT

1. The Director of the Communities and Ecosystems Division ("Complainant"), United States Environmental Protection Agency ("EPA") Region 9, and Polyclad Laminates, Inc. ("Respondent" or "Polyclad") agree to settle this matter and consent to the filing of this Consent Agreement and Final Order Pursuant to 40 C.F.R. §§ 22.13 and 22.18 ("CAFO"), which simultaneously commences and concludes this matter in accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b).
2. This is a civil administrative proceeding initiated pursuant to Section 325(c) of Title III of the Superfund Amendments and Reauthorization Act, 42 U.S.C. § 11001 et seq., also known as the Emergency Planning and Community Right-to-Know Act of 1986 ("EPCRA"), for violation of Section 313 of EPCRA, 42 U.S.C. § 11023, and the regulations promulgated to implement Section 313 at 40 C.F.R. Part 372.
3. Complainant has been duly delegated the authority to file this action and sign a consent agreement settling this action. Respondent is a corporation incorporated in Massachusetts.

1 4. Pursuant to Sections 313 and 328 of EPCRA, 42 U.S.C. §§ 11023  
2 and 11048, EPA promulgated the Toxic Chemical Release  
3 Reporting: Community Right-to-Know Rule at 40 C.F.R. Part  
4 372.

5 5. Section 313(a) of EPCRA, as implemented by 40 C.F.R.  
6 § 372.30, provides that an owner or operator of a facility  
7 that meets the criteria set forth in EPCRA Section 313(b) and  
8 40 C.F.R. § 372.22, is required to submit annually to the  
9 Administrator of EPA and to the State in which the facility  
10 is located, no later than July 1st of each year, a toxic  
11 chemical release inventory reporting form (hereinafter "Form  
12 R") for each toxic chemical listed under 40 C.F.R. § 372.65  
13 that was manufactured, processed or otherwise used at the  
14 facility during the preceding calendar year in quantities  
15 exceeding the thresholds established under EPCRA Section  
16 313(f) and 40 C.F.R. §§ 372.25, 375.27, and 372.28.

17 6. Section 313(b) of EPCRA and 40 C.F.R. § 372.22 provide that  
18 the requirements of Section 313(a) and 40 C.F.R. § 372.30  
19 apply to an owner and operator of a facility that has 10 or  
20 more full-time employees; that is in a Standard Industrial  
21 Classification major group codes 10 (except 1011, 1081, and  
22 1094), 12 (except 1241), 20 through 39; industry codes 4911,  
23 4931, or 4939 (limited to facilities that combust coal and/or  
24 oil for the purpose of generating power for distribution in  
25 commerce), or 4953 (limited to facilities regulated under the  
26 Resource Conservation and Recovery Act, subtitle C, 42 U.S.C.

1 \$6921 et seq.), or 5169, 5171, or 7389 (limited to facilities  
2 primarily engaged in solvent recovery services on a contract  
3 or fee basis); and that manufactures, processes, or otherwise  
4 uses one or more toxic chemicals listed under Section 313(c)  
5 of EPCRA and 40 C.F.R. § 372.65 in quantities in excess of  
6 the applicable thresholds established under EPCRA Section  
7 313(f) and 40 C.F.R. §§ 372.25, 372.27, and 372.28.

8 7. Section 325(c) of EPCRA, 42 U.S.C. § 11045(c) and 40 C.F.R.  
9 Part 19 authorize EPA to assess a penalty of up to \$27,500  
10 for each violation of Section 313 of EPCRA that occurred on  
11 or after January 31, 1997 but before March 15, 2004 and up to  
12 \$32,500 for each violation of Section 313 of EPCRA that  
13 occurred on or after March 15, 2004.

14 8. Respondent is a "person," as that term is defined by Section  
15 329(7) of EPCRA.

16 9. At all times relevant to this CAFO, Respondent was the owner  
17 and operator of a "facility," as that term is defined by  
18 Section 329(4) of EPCRA and 40 C.F.R. § 372.3, located at  
19 3233 Dwight Road, Elk Grove, CA ("Facility"); the Facility  
20 had 10 or more "full-time employees," as that term is defined  
21 at 40 C.F.R. § 372.3; and the Facility was classified in  
22 Standard Industrial Classification Code 3083 - laminated  
23 plastics plate and sheet.

24 10. During calendar years 2002, 2003 and 2004, Respondent  
25 processed the following amounts (in pounds) of methyl ethyl  
26 ketone ("MEK"), methanol and copper, chemicals listed under  
27



40 C.F.R. § 372.65:

<u>Year</u>	<u>MEK</u>	<u>Methanol</u>	<u>Copper</u>
2002	57,777		
2003		34,959	
2004		31,969	1,107,856

11. The quantities of MEK, methanol and copper that the Respondent processed at the Facility during calendar years 2002, 2003 and 2004 exceeded the established threshold of 25,000 pounds set forth at 40 C.F.R. § 372.25(a).
12. Respondent failed to submit a Form R for MEK processed at the Facility to the EPA Administrator and to the State of California on or before July 1, 2003 for calendar year 2002; Respondent failed to submit a Form R for methanol processed at the Facility to the EPA Administrator and to the State of California on or before July 1, 2004 for calendar year 2003, and failed to submit Form Rs for methanol and copper on or before July 1, 2005 for calendar year 2004; as required by Section 313(a) of EPCRA and 40 C.F.R. § 372.30.
13. Respondent's failure to submit a Form R for MEK processed at the Facility for calendar year 2002, a Form R for methanol processed at the Facility for calendar year 2003, and Form Rs for methanol and copper for calendar years 2003 and 2004, constitutes four violations of Section 313 of EPCRA and 40 C.F.R. § 372.30.
14. The EPA Enforcement Response Policy for EPCRA Section 313 dated August 10, 1992 provides for a penalty of eighty-eight thousand six hundred dollars (\$88,600) for these violations.
15. In executing this CAFO, Respondent certifies that (1) it has

1 now fully completed and submitted to EPA all of the required  
2 Form Rs in compliance with Section 313 of EPCRA and the  
3 regulations promulgated to implement Section 313; and (2) it  
4 has complied with all other EPCRA requirements at all  
5 facilities under its control.

6 16. In accordance with 40 C.F.R. § 22.18(b)(2) and for the  
7 purpose of this proceeding, Respondent (i) admits that EPA  
8 has jurisdiction over the subject matter of this CAFO and  
9 over Respondent; (ii) admits the violations and facts alleged  
10 in this CAFO; (iii) consents to the terms of this CAFO; (iv)  
11 waives any right to contest the allegations in this CAFO; and  
12 (v) waives the right to appeal the proposed final order  
13 contained in this CAFO.

14 17. The terms of this CAFO constitute a full settlement of the  
15 civil administrative matter filed under the docket number  
16 above.

17 18. EPA's final policy statement on Incentives for Self-Policing:  
18 Discovery, Disclosure, Correction and Prevention of  
19 Violations, 65 Fed. Reg. 19617 (April 11, 2000) ("Audit  
20 Policy") has several important goals, including encouraging  
21 greater compliance with the laws and regulations which  
22 protect human health and the environment and reducing  
23 transaction costs associated with violations of the laws EPA  
24 is charged with administering. If certain specified criteria  
25 are met, reductions in gravity-based penalties of up to 100%  
26 are available under the Audit Policy. These criteria are (1)  
27  
28

1 discovery of the violation(s) through an environmental audit  
2 or due diligence; (2) voluntary disclosure; (3) prompt  
3 disclosure; (4) discovery and disclosure independent of  
4 government or third party plaintiff; (5) correction and  
5 remediation; (6) prevent recurrence; (7) no repeat  
6 violations; (8) other violations excluded; and (9)  
7 cooperation.

8 19. Complainant has determined that Respondent has satisfied all  
9 of the criteria under the Audit Policy and thus qualifies for  
10 the elimination of civil penalties in this matter.  
11 Accordingly, the civil penalty assessed in this matter is  
12 zero (\$0) dollars.

13 20. Complainant's finding that Polyclad has satisfied the  
14 criteria of the Audit Policy is based upon documentation that  
15 Polyclad has provided to establish that it satisfies these  
16 criteria. Complainant and Respondent agree that, should any  
17 material fact upon which Complainant relied in making its  
18 finding subsequently prove to be other than as represented by  
19 Polyclad, this CAFO may be voided in whole or in part.

20 21. Nothing in this CAFO modifies, affects, exempts or relieves  
21 Respondent's duty to comply with all applicable provisions of  
22 EPCRA and other federal, state or local laws and permits. In  
23 accordance with 40 C.F.R. § 22.18(c), this CAFO only resolves  
24 Respondent's liability for federal civil penalties for the  
25 violations and facts specifically alleged in this CAFO.  
26 Nothing in this CAFO is intended to or shall be construed to  
27  
28



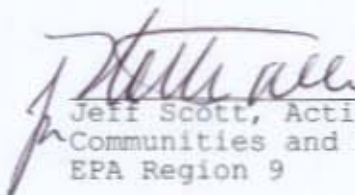
1 resolve (i) any civil liability for violations of any  
2 provision of any federal, state, or local law, statute,  
3 regulation, rule, ordinance, or permit not specifically  
4 alleged in this CAFO; or (ii) any criminal liability. EPA  
5 specifically reserves any and all authorities, rights, and  
6 remedies available to it (including, but not limited to,  
7 injunctive or other equitable relief or criminal sanctions)  
8 to address any violation of this CAFO or any violation not  
9 specifically alleged in this CAFO.

10 22. In accordance with 40 C.F.R. §§ 22.18(b)(3) and 22.31(b),  
11 this CAFO shall be effective on the date that the final order  
12 contained in this CAFO, having been approved and issued by  
13 either the Regional Judicial Officer or Regional  
14 Administrator, is filed.

15 23. The provisions of this CAFO shall be binding upon Respondent,  
16 its agents, successors or assigns. Respondent's obligations  
17 under this Consent Agreement, if any, shall end when  
18 Respondent has performed all of the terms of the Consent  
19 Agreement in accordance with the Final Order. Complainant  
20 and Respondent consent to the entry of the CAFO without  
21 further notice.

22 FOR COMPLAINANT:

23  
24 9-20-2007  
25 Date

  
Jeff Scott, Acting Director  
Communities and Ecosystems Division  
EPA Region 9

26  
27 FOR RESPONDENT:

1 9/17/07  
2 Date

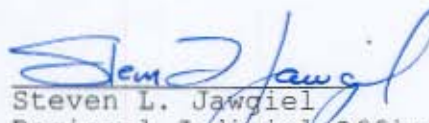
  
3 John H. Kaba Plant Manager  
4 Name Title

5 **II. FINAL ORDER**

6 Complainant EPA Region 9 and Respondent Polyclad Laminates,  
7 Inc., having entered into the foregoing Consent Agreement,

8 IT IS HEREBY ORDERED that this Consent Agreement and Final  
9 Order Pursuant to 40 C.F.R. §§ 22.13 and 22.18 (Docket No. EPCRA-  
10 09-2007-0024 ) be entered.

11 09/25/07  
12 Date

  
13 Steven L. Jawgiel  
14 Regional Judicial Officer  
15 U.S. Environmental Protection  
16 Agency, Region 9



CERTIFICATE OF SERVICE

I certify that the original of the foregoing Consent Agreement and Final Order Pursuant to 40 C.F.R. §§ 22.13 and 22.18, Docket No. EPCRA-09-2007- 0024 , was placed in the United States Mail, certified mail, return receipt requested, addressed to the following address:

Certified Return Receipt No.:

Date: 9/26/2007

By:

Janielle E Carr

Janielle Carr  
Regional Hearing Clerk  
United States Environmental  
Protection Agency, Region 9  
75 Hawthorne Avenue  
San Francisco, California 94105-3143

CERTIFICATE OF SERVICE

I certify that the original fully executed Consent Agreement and Final Order ("CAFO"),  
Docket Number EPCRA-09-2007-0024, was filed this day with the Regional Hearing Clerk, U.S.  
EPA, Region IX, 75 Hawthorne Street, San Francisco, California 94105, and that a true and  
correct copy of the CAFO was sent to Respondent at the following address:

John Huckaba  
Polyclad Laminates  
3233 Dwight Road  
Elk Grove, CA 95758

Certified Mail No: 7005 3110 0002 8247 6907

Danielle E. Carr  
Danielle Carr  
Regional Hearing Clerk  
Region IX, EPA  
Office of Regional Counsel

Oct. 2, 2007  
Date