



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

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

**MAR 17 2009**

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Mr. Jeff Joyce  
Vice President - Manufacturing  
Georgia-Pacific Brewton LLC  
32224 US Highway 31  
Brewton, Alabama 36426

**SUBJECT:** Consent Agreement and Final Order  
Georgia-Pacific Brewton LLC  
Docket No. CAA-04-2009-1503(b)

Dear Mr. Joyce:

Enclosed please find an executed copy of the Consent Agreement and Final Order (CAFO) that resolves the Clean Air Act (CAA) matter (Docket No. CAA-04-2009-1503(b)) involving Georgia-Pacific Brewton LLC. The CAFO was filed with the Regional Hearing Clerk, as required by 40 C.F.R. Part 22 and became effective on today's date.

As required by the CAFO, within thirty days of receipt of this letter, a cashier's check or certified check in the amount of \$2,975, made out to the "Treasurer, United States of America," should be submitted to one of the following addresses:

For payment sent via U.S. Postal Service  
U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
PO Box 979077  
St. Louis, MO 63197-9000; or

For payment sent via overnight mail service (FedEx, UPS)  
U.S. Bank  
1005 Convention Plaza  
Mail Station SL-MO-C2GL  
St. Louis, MO 63101  
Contact: Natalie Pearson @ 314-418-4087

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

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61 Forsyth Street  
Atlanta, Georgia 30303, and

Victor L. Weeks  
U. S. EPA Region 4  
EPCRA Enforcement Section  
61 Forsyth Street  
Atlanta, Georgia 30303.

Also, within one-hundred and twenty (120) days of today's date, Georgia-Pacific Brewton LLC must complete the emergency planning and preparedness supplemental environmental project as specified by the CAFO.

Finally, enclosed, please find a copy of the "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document puts you on notice of your potential duty to disclose to the Security and Exchange Commission (SEC) any environmental enforcement actions taken by the EPA. If you have any questions with regards to the SEC's environmental disclosure requirements, you may refer to the contact phone number at the bottom of the SEC Notice.

If you have any questions, please call Victor Weeks at (404) 562-9189.

Sincerely,



Caron B. Falconer  
Chief, EPCRA Enforcement Section

Enclosures

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4

IN THE MATTER OF: )  
)  
Georgia-Pacific Brewton LLC )  
)  
Respondent )  
\_\_\_\_\_ )

Docket Number: CAA-04-2009-1503(b)

RECEIVED  
EPA REGION 4  
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CONSENT AGREEMENT AND FINAL ORDER

I. Nature of the Action

1. This is a civil penalty proceeding pursuant to Section 113(d) of the Clean Air Act (CAA), 42 U.S.C. § 7413(d), and pursuant to the Consolidated Rules of Practice Governing Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders and the Revocation, Termination or Suspension of Permits (Consolidated Rules), published in 40 C.F.R. Part 22. Complainant is the Director of the Air, Pesticides and Toxics Management Division, Region 4, United States Environmental Protection Agency (EPA). Respondent is Georgia-Pacific Brewton LLC (hereinafter, "Respondent").

2. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 CFR § 22.18 and desire to resolve this matter and settle the allegations described herein without a formal hearing. Therefore, without the taking of any evidence or testimony, the making of any argument, or the adjudication of any issue in this matter, and in accordance with 40 CFR § 22.13(b), this Consent Agreement and Final Order (CAFO) will simultaneously commence and conclude this matter.

II. Preliminary Statements

3. The authority to take action under Section 113(d) of the CAA, 42 U.S.C. § 7413(d), is vested in the Administrator of EPA. The Administrator of EPA has delegated this authority under the CAA to the Regional Administrators by EPA Delegation 7-6-A, last updated on August 4, 1994. The Regional Administrator, Region 4, has re-delegated this authority to the Director, Air, Pesticides and Toxics Management Division. Pursuant to that delegation, the Director of the Air, Pesticides and Toxics Management Division has the authority to commence an enforcement action as the Complainant in this matter.

4. Respondent does business in the State of Alabama.

5. Respondent is a "person" within the meaning of Section 302(e) of the CAA, 42 U.S.C. § 7602(e), and is therefore subject to the provisions of the CAA and regulations promulgated thereunder.

6. Respondent operates a “stationary source” as that term is defined by Section 302(z) of the CAA, 42 U.S.C. § 7602(z). The Respondent’s stationary source is located at 32224 US Highway 31, Brewton, Alabama 36426.

7. Section 112(r) of the CAA, 42 U.S.C. § 7412(r), addresses the prevention of releases of substances listed pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3). The purpose of this section is to prevent the accidental release of extremely hazardous substances and to minimize the consequences of such releases. Pursuant to Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), EPA is authorized to promulgate regulations for accidental release prevention.

8. Pursuant to Section 112(r)(3) and 112(r)(7) of the CAA, 42 U.S.C. §§ 7412(r)(3) and 7412(r)(7), EPA promulgated rules codified at 40 C.F.R. Part 68, Chemical Accident Prevention Provisions. These regulations are collectively referred to as the “Risk Management Program” (RMProgram) and apply to an owner or operator of a stationary source that has more than a threshold quantity of a regulated substance in a process. Pursuant to Sections 112(r)(3) and 112(r)(5) of the CAA, 42 U.S.C. §§ 7412(r)(3) and 7412(r)(5), the list of regulated substances and threshold levels are codified at 40 C.F.R. § 68.130.

9. The Respondent, at its stationary source identified in Paragraph 6 of this CAFO, has one RMProgram covered process which stores or otherwise uses chlorine dioxide in quantities exceeding the applicable RMProgram threshold (1,000 pounds).

10. Pursuant to Section 112(r)(7)(B)(iii) of the CAA, 42 U.S.C. § 7412(r)(7)(B)(iii), and 40 C.F.R. §§ 68.10 and 68.150, the owner or operator of a stationary source that has 1,000 pounds or more of chlorine dioxide in a “process” as defined in 40 C.F.R. § 68.3, must develop an RMProgram accidental release prevention program, and submit and register a single Risk Management Plan (RMPlan) to EPA.

11. Respondent has submitted and registered an RMPlan to EPA for the stationary source identified in Paragraph 6 of this CAFO. Respondent has developed an RMProgram accidental release prevention program for the stationary source identified in Paragraph 6 of this CAFO.

12. Based on an RMProgram compliance monitoring inspection conducted on December 4, 2007, EPA alleges that the Respondent violated the codified rules governing the CAA Chemical Accident Prevention Provisions, because Respondent did not adequately implement a provision of 40 C.F.R. Part 68 when:

- a. It failed to develop a written schedule for all process hazard analysis recommendations (action items), and failed to document the outcome and completion of such action items as required by 40 CFR § 68.67(e); and

- b. It failed to certify annually that the operating procedures are current and accurate and that procedures have been reviewed as often as necessary as required by 40 CFR § 68.69(c).

### III. Consent Agreement

13. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set out above but neither admits nor denies the factual allegations set out above.

14. Respondent waives any right to contest the allegations and its right to appeal the proposed final order accompanying the Consent Agreement.

15. Respondent consents to the assessment of and agrees to pay the civil penalty, and to complete the Supplemental Environmental Project (SEP) as set forth in this CAFO.

16. Respondent certifies that as of the date of execution of this CAFO, to the best of the Respondent's knowledge, it is compliant with the applicable requirements of Section 112(r) of the CAA.

17. Compliance with the CAFO shall resolve the allegations of violations contained herein. This CAFO shall not otherwise affect any liability of Respondent to the United States other than as expressed herein. Neither EPA nor Complainant waives any right to bring an enforcement action against Respondent for violation of any federal or state statute, regulation or permit, to initiate an action for imminent and substantial endangerment, or to pursue criminal enforcement.

18. Complainant and Respondent agree to settle this matter by their execution of this CAFO. 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 the RMProgram.

### IV. Final Order

19. Respondent agrees to pay a civil penalty of TWO THOUSAND, NINE HUNDRED AND SEVENTY-FIVE DOLLARS (\$2,975). Payment is to be paid within thirty (30) days of the effective date of this CAFO.

20. Respondent shall pay the penalty by forwarding a cashier's or certified check payable to the "Treasurer, United States of America," to one of the following addresses:

For payment sent via U.S. Postal Service  
U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
PO Box 979077  
St. Louis, MO 63197-9000; or

For payment sent via overnight mail service (FedEx, UPS)  
U.S. Bank  
1005 Convention Plaza  
Mail Station SL-MO-C2GL  
St. Louis, MO 63101; Contact: Natalie Pearson, 314-418-4087

**The check shall reference on its face the name and the Docket Number of the CAFO.**

21. At the time of payment, Respondent shall send a separate copy of the check, and a written statement that payment has been made in accordance with this CAFO, to the following persons at the following addresses:

Regional Hearing Clerk  
U.S. EPA Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303

Victor L. Weeks  
EPCRA Enforcement Section  
U.S. EPA Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303

Saundi Wilson  
Office of Environmental Accountability  
U.S. EPA Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303

22. For the purposes of state and federal income taxation, Respondent shall not be entitled, and agrees not to attempt, to claim a deduction for any civil penalty payment made pursuant to this CAFO. Also, for federal income tax purposes, Respondent agrees that it will neither capitalize into inventory or basis nor deduct any costs or expenditures incurred in performing the SEP. Any attempt by Respondent to deduct any such penalty payment or SEP expenditure shall constitute a violation of this CAFO.

23. Within one-hundred and twenty (120) days of the effective date of this CAFO, Respondent shall complete the following emergency planning and preparedness SEP:

The Respondent shall purchase emergency response equipment, and donate such equipment to the Brewton, Alabama, Fire Department. The SEP equipment to be purchased is specified in the table below.

Description	Quantity
60 Minute MSA Air Pack	4
6% AXXX Foam, 5 Gallon	70
1783 Akron Wide Range Nozzle	1
777 Akron Foam Tube	1
877 Akron Expansion Foam Tube	1
3095 Akron 95 GPM Incline Eductor, 2½ inch Inlet	1

24. Respondent shall spend a minimum of ELEVEN THOUSAND, FOUR HUNDRED AND FIFTY-FIVE Dollars (\$11,455) to complete the above referenced SEP.

25. Within one-hundred and fifty (150) days of the effective date of this CAFO, Respondent shall submit the following documentation to Victor Weeks at the address given in Paragraph 21 of the CAFO:

- a. An affidavit from an appropriate representative of Respondent, which shall state whether and when the project was completed;
- b. Documentation of the expenses for the SEP including, but not limited to, invoices and canceled checks; and
- c. Upon request, Respondent shall immediately send EPA any additional documentation concerning implementation of the SEP.

26. Respondent certifies that, as of the effective date of this CAFO, it is not required to perform any part of the SEP by any federal, state or local law, regulation, permit or order, or by any agreement or grant. Respondent further certifies that, as of this date, it has not received, and is not negotiating to receive, credit for any part of the SEP in any other enforcement action of any kind.

27. Any public statement, oral or written, by Respondent making any reference to any part of the SEP shall include the following language, "This project was undertaken in connection with the settlement of an enforcement action taken by the U.S. Environmental Protection Agency for violations of Section 112(r) of the Clean Air Act."

28. If Respondent fails to timely and fully complete any part of the SEP, including the failure to spend the minimum amount of ELEVEN THOUSAND, FOUR HUNDRED AND FIFTY-FIVE Dollars (\$11,455) for the SEP, Respondent shall pay to the United States a stipulated penalty of the difference, between the required minimum amount and the amount spent, except as follows:

- a. If the SEP was fully and timely completed, and Respondent expended at least 90 percent of the minimum amount required, Respondent shall not pay a stipulated penalty; or

- b. If the SEP was not fully and timely completed, but Respondent expended at least 90 percent of the minimum amount required, Respondent shall not pay a stipulated penalty if it made a good faith effort to fully and timely complete the SEP.

For the purposes of this paragraph, determining whether Respondent has fully and timely completed the SEP and whether Respondent made a good faith effort to do so shall be in the sole discretion of EPA.

29. Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on the civil penalty from the date of entry of the CAFO if the penalty is not paid by the date required. Interest will be assessed at the rate established by the Secretary of Treasury pursuant to 31 U.S.C. § 3717. A charge will be assessed to cover the costs of debt collection, including processing and handling costs and attorney fees. In addition, a penalty charge up to six percent per year compounded annually will be assessed on any portion of the debt that remains delinquent more than ninety (90) days after payment is due.

30. Complainant and Respondent shall bear their own costs and attorney fees in this matter.

31. This CAFO shall be binding upon the Respondent, its successors, and assigns.



32. The following individual represents EPA in this matter and is authorized to receive service for EPA in this proceeding:

Caron B. Falconer  
61 Forsyth Street  
Atlanta, GA 30303  
(404) 562-8451

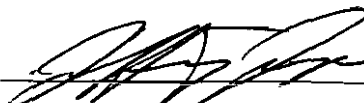
33. Each undersigned representative of the parties to this CAFO certifies that he or she is fully authorized by the party represented to enter into this CAFO and legally bind that party to it.

V. Effective Date

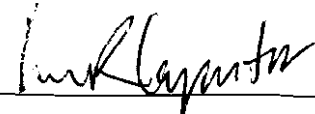
34. The effective date of this CAFO shall be the date on which the CAFO is filed with the Regional Hearing Clerk.

**AGREED AND CONSENTED TO:**


**Georgia-Pacific Brewton LLC**

By:  Date: 2/20/09  
Name: J.T. Joyce (Typed or Printed)  
Title: VP-Manufacturing (Typed or Printed)

**U.S. Environmental Protection Agency**

By:  Date: 2/5/09  
Carol L. Kemker, Acting Director  
Air, Pesticides & Toxics  
Management Division  
Region 4

**APPROVED AND SO ORDERED** this 17<sup>th</sup> day of March, 2009.

  
Susan B. Schub  
Regional Judicial Officer

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the foregoing Expedited Settlement Agreement, in the matter of Georgia-Pacific Brewton LLC, CAA-04-2009-1503(b), on the parties listed below in the manner indicated:

Caron B. Falconer (Via EPA's internal mail)  
U. S. EPA - Region 4  
Air, Pesticides and Toxics  
Management Division  
61 Forsyth Street  
Atlanta, GA 30303

Nancy Tommelleo (Via EPA's internal mail)  
U. S. EPA - Region 4  
Office of Environmental Accountability  
61 Forsyth Street  
Atlanta, GA 30303

Mr. Jeff Joyce (Via Certified Mail -  
Return Receipt Requested)  
Vice President - Manufacturing  
Georgia-Pacific Brewton LLC  
32224 US Highway 31  
Brewton, Alabama 36426

Date:

3/17/09



Patricia A. Bullock, Regional Hearing Clerk  
United States Environmental Protection Agency  
Region 4  
Sam Nunn Atlanta Federal Center  
61 Forsyth Street  
Atlanta, Georgia 30303  
404-562-9511

EPA ACCOUNTS RECEIVABLE CONTROL NUMBER FORM

TO BE COMPLETED BY THE ORIGINATING OFFICE:

(Attach a copy of the final order and transmittal letter to Defendant/Respondent)

This form was originated by: Saundi Wilson on 3/9/09 (Name) (Date)

in the Region 4, ORC, OEA at (404) 562-9504 (Office) (Telephone Number)

Non-SF Judicial Order/Consent Decree USAO COLLECTS

Administrative Order/Consent Agreement FMO COLLECTS PAYMENT

SF Judicial Order/Consent Decree DOJ COLLECTS

Oversight Billing - Cost Package required: Sent with bill

Not sent with bill

Other Receivable

Oversight Billing - Cost Package not required

This is an original debt

This is a modification

PAYEE: Georgia-Pacific Brewster LLC (Name of person and/or Company/Municipality making the payment)

The Total Dollar Amount of the Receivable: \$ 2975 (If installments, attach schedule of amounts and respective due dates. See Other side of this form.)

The Case Docket Number: CAA 04 2009 1503(6)

The Site Specific Superfund Account Number:

The Designated Regional/Headquarters Program Office:

The IFMS Accounts Receivable Control Number is: Date

If you have any questions, please call: of the Financial Management Section at:

DISTRIBUTION:

A. JUDICIAL ORDERS: Copies of this form with an attached copy of the front page of the FINAL JUDICIAL ORDER should be mailed to:

- 1. Debt Tracking Officer Environmental Enforcement Section Department of Justice RM 1647 P.O. Box 7611, Benjamin Franklin Station Washington, D.C. 20044
2. Originating Office (EAD)
3. Designated Program Office

B. ADMINISTRATIVE ORDERS: Copies of this form with an attached copy of the front page of the Administrative Order should be to:

- 1. Originating Office
2. Regional Hearing Clerk
3. Designated Program Office
4. Regional Counsel (EAD)