



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

DEC 21, 2010

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

Granta Y. Nakayama, P.C.  
Kirkland & Ellis LLP  
Environmental Counseling and Litigation  
655 Fifteenth Street, N.W.  
Washington, DC 20005

RE: Covalence Adhesives, LLC  
Consent Agreement and Final Order (CAFO)  
Docket No. RCRA-04-2010-4014(b)

Dear Ms. Nakayama:

Enclosed please find a copy of the executed CAFO as filed with the Regional Hearing Clerk (RHC) in the above-referenced matter. The CAFO is effective on the date it is filed with the RHC, and the penalty due date is calculated from the effective date.

Also enclosed, please find a copy of a document entitled "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document puts Covalence Adhesives, LLC on notice of its potential duty to disclose to the Securities Exchange Commission (SEC) any environmental actions taken by the United States Environmental Protection Agency.

If you have any questions, please feel free to contact me at (404) 562-9705.

Sincerely,

A handwritten signature in black ink that reads "Alfred R. Politzer".

Alfred R. Politzer  
Assistant Regional Counsel  
Office of Environmental Accountability

Enclosures

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4**

IN THE MATTER OF:	)	DOCKET NO.: RCRA-04-2010-4014(b)
	)	
	)	
COVALENCE ADHESIVES, LLC	)	
2320 BOWLING GREEN ROAD	)	PROCEEDING UNDER SECTION
FRANKLIN, KENTUCKY 42134	)	3008(a) OF THE RESOURCE
	)	CONSERVATION AND RECOVERY
	)	ACT, 42 U.S.C. § 6928(a)
EPA ID NO.: KYD 062 979 158	)	
	)	
RESPONDENT	)	
_____	)	

**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 United States Code (U.S.C.) §§ 6921, *et seq.*, and Chapter 224 of the Kentucky Revised Statutes (KY. REV. STAT. ANN.), Subchapter 46. This action is seeking injunctive relief and the imposition of civil penalties pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), for violations of RCRA and the regulations promulgated pursuant thereto at Title 40 of the Code of Federal Regulations (C.F.R.), Parts 260 - 268, 270 and 279; and KY. REV. STAT. ANN. §§ 224.46-012, *et seq.*, and the regulations promulgated pursuant thereto at Title 401 of the Kentucky Administrative Regulations (KY. ADMIN. REG.) Chapters 30-40.
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. The parties 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), the parties have agreed to the execution of this CAFO, and Respondent agrees to comply with the terms of this CAFO.

2/10/2010 11:07 AM  
RCRA-04-2010-4014(b)  
COVALENCE ADHESIVES, LLC

## **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 Covalence Adhesives, LLC., a corporation incorporated under the laws of the State of Delaware, doing business in the Commonwealth of Kentucky, and located at 2320 Bowling Green Road, Franklin, Kentucky 42134.

## **III. PRELIMINARY STATEMENTS**

6. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), Kentucky has received final authorization to carry out a hazardous waste program in lieu of the federal program. The requirements of the authorized state program are found in KY. REV. STAT. ANN. § 226.46-012, *et. seq.*, and 401 KY. ADMIN. REG. 30:005, *et. seq.*
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 upon their federal effective date regardless of the state's authorization status, and are implemented by EPA until the state is granted final authorization with respect to those requirements. Kentucky has received final authorization for its HSWA program relevant herein except for 40 C.F.R. Part 265 Subparts BB and CC.
8. Although EPA has granted Kentucky the 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 Kentucky program and to enforce those provisions of HSWA for which a state is not authorized. EPA exercises this authority in the manner set forth in the Memorandum of Agreement between EPA and Kentucky.
9. Pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), Complainant gave written notice of this action to Kentucky before the issuance of this CAFO.
10. Section 3002(a) of RCRA, 42 U.S.C. § 6922(a), and KY. REV. STAT. ANN. § 224.46-012, *et. seq.*, require the promulgation of standards applicable to generators of hazardous waste. The implementing regulations for these standards are found in 40 C.F.R. Part 262 and 401 KY. ADMIN. REG. Chapter 32.
11. Section 3004 of RCRA, 42 U.S.C. § 6924, and KY. REV. STAT. ANN. § 224.46-012, *et. seq.*, require the promulgation of standards applicable to owners and operators of hazardous waste treatment, storage, and disposal facilities. The implementing regulations for these standards are found at 40 C.F.R. Part 264 and 401 KY. ADMIN. REG. Chapter 34.
12. Section 3005 of RCRA, 42 U.S.C. § 6925, and KY. REV. STAT. ANN. § 224.46-012, *et. seq.*, set 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, 265, and 270, and 401 KY. ADMIN. REG. Chapters 34, 35, and 36.

13. Pursuant to 40 C.F.R. § 261.2 and 401 KY. ADMIN. REG. 31:010 Section 2, a “solid waste” is any discarded material that is not otherwise excluded by regulation.
14. Pursuant to 40 C.F.R. § 261.3 and 401 KY. ADMIN. REG. 31:010 Section 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 401 KY. ADMIN. REG. 31:010 Section 4, and it meets any of the criteria specified in 40 C.F.R. § 261.3(a)(2).
15. Pursuant to 40 C.F.R. § 261.30, and 401 KY. ADMIN. REG. 32:005 Section 1, a solid waste is a hazardous waste if it is listed in 40 C.F.R. Part 261, Subpart D.
16. Pursuant to 40 C.F.R. § 260.10 and 401 KY. ADMIN. REG. 31:005 Section 1, a “generator” is defined as any person, by site, whose act or process produces hazardous waste identified or listed in 40 C.F.R. Part 261 and 401 KY. ADMIN. REG. 31:010 Section 3, or whose act first causes a hazardous waste to become subject to regulation.
17. Pursuant to 40 C.F.R. § 260.10 and 401 KY. ADMIN. REG. 31:005 Section 1, a “tank system” is defined as a hazardous waste storage or treatment tank and its associated equipment and containment system.
18. Pursuant to 40 C.F.R. § 260.10 and 401 KY. ADMIN. REG. 43:005 Section 1, a “universal waste” is defined as any of the following hazardous wastes that are managed under the universal waste requirements set forth in 40 C.F.R. Part 273: (1) batteries as described in 40 C.F.R. § 273.2; (2) pesticides as described in 40 C.F.R. § 273.3; (3) mercury-containing equipment as described in 40 C.F.R. § 273.4; and (4) lamps as described in 40 C.F.R. § 273.5.
19. Pursuant to 40 C.F.R. § 273.9 and 401 KY. ADMIN. REG. 43:005 Section 1, a “universal waste handler” is defined as: (1) a generator (as defined in 40 C.F.R. § 273.9) of universal waste; or (2) the owner or operator of a facility, including all contiguous property, that receives universal waste from other universal waste handlers, accumulates universal waste, and sends universal waste to another universal waste handler, to a destination facility, or to a foreign destination.
20. Pursuant to 40 C.F.R. § 273.9 and 401 KY. ADMIN. REG. 43:005 Section 1, 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.
21. Pursuant to 40 C.F.R. § 262.34(a) and 401 KY. ADMIN. REG. 32:030 Section 5, a generator may accumulate hazardous waste on site for 90 days or less without a permit or without having interim status provided that the generator complies with the management

requirements listed in 40 C.F.R. § 262.34(a)(1)-(4) (hereinafter referred to as the “40 C.F.R. § 262.34(a) permit exemption”).

22. Pursuant to 40 C.F.R. § 262.34(a)(1)(ii), a condition of the 40 C.F.R. § 262.34(a) permit exemption requires a generator to comply with 40 C.F.R. § 265.191 and 401 KY. ADMIN. REG. 35:190 Section 2 (requiring the operator of a hazardous waste storage tank system to conduct a tank system integrity assessment).
23. Pursuant to 40 C.F.R. § 262.34(a)(1)(ii), a condition of the 40 C.F.R. § 262.34(a) permit exemption requires a generator to comply with 40 C.F.R. § 265.195(b) and 401 KY. ADMIN. REG. 35:190 Section 6 (requiring the operator of a hazardous waste tank system to inspect the tank system at least once each day the tank is in operation).
24. Pursuant to 40 C.F.R. § 262.34(a)(1)(ii), a condition of the 40 C.F.R. § 262.34(a) permit exemption requires a generator to comply with 40 C.F.R. § 265.1050(b) (requiring the operator of equipment that contacts hazardous waste with an organic concentration of at least 10% to comply with the 40 C.F.R. Part 265, Subpart BB air emission standards for equipment leaks unless such contact is for less than 300 hours per year pursuant to 40 C.F.R. § 265.1050(e)).
25. Pursuant to 40 C.F.R. § 262.34(a)(1)(ii), a condition of the 40 C.F.R. § 262.34(a) permit exemption requires a generator to comply with 40 C.F.R. § 265.1085(b) (requiring the operator of a tank that manages hazardous waste to determine whether Tank Level 1 or Tank Level 2 controls are applicable to the tank system).
26. Pursuant to 40 C.F.R. § 262.34(a)(3) and 401 KY. ADMIN. REG. 32:030 Section 5, a condition of the 40 C.F.R. § 262.34(a) permit exemption requires a generator to mark each container with the words “Hazardous Waste” while the waste is being accumulated.
27. Pursuant to 40 C.F.R. § 262.34(c)(1)(i) and 401 KY. ADMIN. REG. 32:030 Section 5, a generator may accumulate as much as 55 gallons of hazardous waste or one quart of acutely hazardous waste in containers at or near any point of generation where wastes initially accumulate, without a permit or interim status, provided that he comply with 40 C.F.R. § 265.173(a) and 401 KY. ADMIN. REG. 35:180 Section 4 (requiring the container holding the hazardous waste to be closed except when necessary to add or remove waste).
28. Pursuant to 40 C.F.R. § 262.34(c)(1)(ii) and 401 KY. ADMIN. REG. 32:030 Section 5, a generator may accumulate as much as 55 gallons of hazardous waste or one quart of acutely hazardous waste in containers at or near any point of generation where wastes initially accumulate, without a permit or interim status, provided that he marks his containers either with the words “Hazardous Waste” or with other words that identify the contents of the container.
29. Pursuant to 40 C.F.R. § 273.13(d)(1) and 401 KY. ADMIN. REG. 43:020 Section 4, a small quantity handler of universal waste must manage universal waste lamps in a way that

prevents releases of any universal waste to the environment by containing any universal waste lamp in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the content of the lamps. The containers and packages must remain closed, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

30. Pursuant to 40 C.F.R. § 273.14(e) and 401 KY. ADMIN. REG. 43:020 Section 5, a small quantity handler of universal waste must clearly label or mark universal waste lamps (i.e., each lamp), or the container in which the lamps are contained with one of the following phrases: "Universal Waste – Lamp(s)," "Waste Lamp(s)," or "Used Lamp(s)."

#### **IV. EPA ALLEGATIONS AND DETERMINATIONS**

31. Respondent is a "person" as defined in 40 C.F.R. § 260.10 and 401 KY. ADMIN. REG. 31:005 Section 1.
32. Respondent is the "owner" and "operator" of a "facility," as those terms are defined in 40 C.F.R. § 260.10 and 401 KY. ADMIN. REG. 31:005 Section 1.
33. Respondent manufactures adhesive tape. The principal production processes are batch processes. As a result of its production processes, Respondent generates a spent liquid solvent adhesive waste stream (volatile organic hazardous waste) that has an organic concentration greater than 10%.
34. Respondent generates waste that is a "solid waste" as defined in 40 C.F.R. § 261.2 and 401 KY. ADMIN. REG. 31:005 Section 1.
35. Pursuant to 40 C.F.R. §§ 261.20 and 261.30, and 401 KY. ADMIN. REG. 31:030 Section 5 and 32:005 Section 1, the spent liquid solvent adhesive waste stream is characteristically hazardous for ignitability (D001) and a listed hazardous waste (F005).
36. Respondent generates hazardous waste as defined in 40 C.F.R. § 261.3 and 401 KY. ADMIN. REG. 31:010 Section 3.
37. Respondent generates waste that is a "universal waste" as defined in 40 C.F.R. § 273.9 and 401 KY. ADMIN. REG. 43:005 Section 1.
38. Respondent is a "universal waste handler" as defined in 40 C.F.R. § 273.9 and 401 KY. ADMIN. REG. 43:005 Section 1.
39. Respondent is a "small quantity handler of universal waste" as defined in 40 C.F.R. § 273.9 and 401 KY. ADMIN. REG. 43:005 Section 1.
40. The Kentucky Department of Environmental Protection (KDEP) has assigned Respondent EPA ID number KYD 062 979 158.

41. On August 11, 2009, EPA and KDEP conducted a RCRA Compliance Evaluation Inspection (CEI) of Respondent's facility.
42. At the time of the inspection, Respondent managed the spent liquid solvent adhesive waste generated on-site in a tank system.
43. Respondent's tank system consisted of:
  - a. one outside 12,000 gallon above-ground hazardous waste storage tank,
  - b. one inside stainless steel 1,200 gallon in-ground sump,
  - c. piping to transfer the spent liquid solvent adhesive waste to the 1,200 gallon sump, and
  - d. piping to transfer the spent liquid solvent adhesive waste from the 1,200 gallon sump to the outside 12,000 gallon hazardous waste storage tank.
44. Respondent's piping includes pipes, pumps, valves, compressors, pressure relief devices, connectors, flanges, and/or control devices.
45. At the time of the CEI, Respondent had failed to conduct a tank system integrity assessment on the inside 1,200 gallon in-ground sump.
46. EPA therefore alleges that Respondent has violated Section 3005 of RCRA, 42 U.S.C. § 6925, and KY. REV. STAT. ANN. § 224.46-012, *et. seq.*, for storing hazardous waste without a permit or interim status, because Respondent failed to meet the 40 C.F.R. § 262.34(a)(1)(ii) condition of the 40 C.F.R. § 262.34(a) permit exemption by not complying with 40 C.F.R. § 265.191 and 401 KY. ADMIN. REG. 35:190 Section 2.
47. At the time of the CEI, Respondent had failed to correctly conduct daily inspections of the outside 12,000 gallon above-ground storage tank and the inside 1,200 gallon in-ground sump.
48. EPA therefore alleges that Respondent has violated Section 3005 of RCRA, 42 U.S.C. § 6925, and KY. REV. STAT. ANN. § 224.46-012, *et. seq.*, for storing hazardous waste without a permit or interim status, because Respondent failed to meet the 40 C.F.R. § 262.34(a)(1)(ii) condition of the 40 C.F.R. § 262.34(a) permit exemption by not complying with 40 C.F.R. § 265.195(b) and 401 KY. ADMIN. REG. 35:190 Section 6.
49. At the time of the CEI, Respondent had failed to comply with the 40 C.F.R. Part 265 Subpart BB air emission standards for equipment leaks or, in the alternative, correctly provide documentation at the time of the CEI to demonstrate that the equipment in contact with the spent liquid solvent adhesive waste was in such contact for less than 300 hours per year.
50. EPA therefore alleges that Respondent has violated Section 3005 of RCRA, 42 U.S.C. § 6925, for storing hazardous waste without a permit or interim status, because Respondent failed to meet the 40 C.F.R. § 262.34(a)(1)(ii) condition of the 40 C.F.R.

§ 262.34(a) permit exemption by not complying with 40 C.F.R. § 265.1050(b), or, in the alternative, 40 C.F.R. § 265.1050(e).

51. At the time of the CEI, Respondent had failed to determine whether Tank Level 1 or Tank Level 2 controls were applicable to the inside 1,200 gallon in-ground sump.
52. EPA therefore alleges that Respondent has violated Section 3005 of RCRA, 42 U.S.C. § 6925, for storing hazardous waste without a permit or interim status, because Respondent failed to meet the 40 C.F.R. § 262.34(a)(1)(ii) condition of the 40 C.F.R. § 262.34(a) permit exemption by not complying with 40 C.F.R. § 265.1085(b).
53. At the time of the CEI, Respondent had failed to label hazardous waste containers with the words "Hazardous Waste."
54. EPA therefore alleges that Respondent has violated Section 3005 of RCRA, 42 U.S.C. § 6925, and KY. REV. STAT. ANN. § 224.46-012, *et. seq.*, for storing hazardous waste without a permit or interim status, because Respondent failed to meet the 40 C.F.R. § 262.34(a)(3) and 401 KY. ADMIN. REG. 32:030 Section 5 condition of the 40 C.F.R. § 262.34(a) permit exemption.
55. At the time of the CEI, Respondent had failed to close hazardous waste satellite accumulation containers.
56. EPA therefore alleges that Respondent has violated Section 3005 of RCRA, 42 U.S.C. § 6925, and KY. REV. STAT. ANN. § 224.46-012, *et. seq.*, for storing hazardous waste without a permit or interim status, because Respondent failed to meet the 40 C.F.R. § 262.34(c)(1)(i) and 401 KY. ADMIN. REG. 32:030 Section 5 condition of the 40 C.F.R. § 262.34(a) permit exemption by not complying with 40 C.F.R. § 265.173(a) and 401 KY. ADMIN. REG. 35:180 Section 4.
57. At the time of the CEI, Respondent had failed to label hazardous waste satellite accumulation containers with the words "Hazardous Waste" or with other words that identified the contents of the containers.
58. EPA therefore alleges that Respondent has violated Section 3005 of RCRA, 42 U.S.C. § 6925, and KY. REV. STAT. ANN. § 224.46-012, *et. seq.*, for storing hazardous waste without a permit or interim status, because Respondent failed to meet the 40 C.F.R. § 262.34(c)(1)(ii) and 401 KY. ADMIN. REG. 32:030 Section 5 condition of the 40 C.F.R. § 262.34(a) permit exemption.
59. At the time of the CEI, Respondent had failed to close containers of universal waste lamps.
60. EPA therefore alleges that Respondent has violated 40 C.F.R. § 273.13(d)(1) and 401 KY. ADMIN. REG. 43:020 Section 4.



61. At the time of the CEL, Respondent had failed to label containers of Universal Waste Lamps with one of the following phrases: "Universal Waste – Lamp(s)," "Waste Lamp(s)," or "Used Lamp(s)."
62. EPA therefore alleges that Respondent has violated 40 C.F.R. § 273.14(e) and 401 KY. ADMIN. REG. 43:020 Section 5.

#### **V. TERMS OF AGREEMENT**

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

63. Within thirty (30) calendar days of receipt of the executed copy of this CAFO, Respondent shall submit to EPA and KDEP a certification signed by a duly authorized representative stating that the Facility is in compliance with RCRA and that all the violations alleged in this CAFO have been corrected.

This certification shall be as follows:

"I certify under penalty of law, to the best of my knowledge and belief that all violations alleged in this CAFO have been corrected. All work was done under my direction or supervision according to a system designed to assure that qualified personnel implemented and completed the required tasks. This certification is based on my inquiry of the person(s) who performed the tasks, or those persons directly responsible for the person(s) who performed the tasks. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

64. The certifications required to be submitted under this CAFO shall be mailed to:

Kris Lippert  
RCRA Division – 10th Floor  
US EPA Region 4  
Sam Nunn Atlanta Federal Center  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303

And to:

Anthony Hatton  
Division of Waste Management  
Kentucky Department of Environmental Protection  
300 Fair Oaks Lane  
Frankfort, Kentucky 40601

65. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set out in the above paragraphs pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928.
66. Respondent neither admits nor denies the above factual allegations and determinations.
67. Respondent waives any right to contest the allegations and its right to appeal the proposed Final Order accompanying the Consent Agreement.
68. Respondent waives its right to challenge the validity of this CAFO and the settlement of the matters addressed in this CAFO based on the Paperwork Reduction Act.
69. Respondent waives any right 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.
70. 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. The parties agree that compliance with the terms of this CAFO shall resolve all of Respondent's liability for civil penalties for the violations and facts alleged and stipulated to in this CAFO.
71. Each party will pay its own costs and attorney's fees.

#### **VI. PAYMENT OF CIVIL PENALTY**

72. Respondent consents to the payment of a civil penalty in the amount of NINETY THOUSAND THREE HUNDRED AND NINE DOLLARS (\$90,309) within thirty (30) calendar days of the effective date of this CAFO.
73. Payment shall be made by cashier's check, certified check, by electronic funds transfer (EFT), or by Automated Clearhouse (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 docket number and facility name shall be referenced on the face of the check. If Respondent utilizes the US Postal Service, the payment shall be addressed to:

United States Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, Missouri 63197-9000

If Respondent utilizes non-US Postal express mail delivery, the payment shall be sent to:

United States Bank  
Government Lockbox 979077  
United States Environmental Protection Agency

Fines and 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  
United States Environmental Protection Agency  
808 17<sup>th</sup> Street, N.W.  
Washington, D.C. 20074  
Contact: Jessc White, (301) 887-6548

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

Patricia Bullock, Regional Hearing Clerk  
United States Environmental Protection Agency, Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8909

And to:

Kris Lippert  
North Enforcement and Compliance Section  
RCRA and OPA Enforcement and Compliance Branch  
RCRA Division  
United States Environmental Protection Agency, Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303

75. 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 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 or stipulated 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.
- b. Monthly Handling Charge. Respondent must pay a late payment handling charge of fifteen dollars (\$15.00) on any late payment, with an additional charge of fifteen dollars (\$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 or a stipulated penalty more than ninety (90) calendar days past due, Respondent must pay a non-payment penalty of six percent (6%) 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 may accrue under subparagraphs (a) and (b).

76. Penalties paid pursuant to this CAFO are not tax deductible under 26 U.S.C. § 162(f).

## **VII. PARTIES BOUND**

77. This CAFO shall be binding on 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.
78. 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.
79. The undersigned representative of Respondent hereby certifies that she or he is fully authorized to enter into this CAFO and to execute and legally bind Respondent to it.

## **VIII. RESERVATION OF RIGHTS**

80. Notwithstanding any other provision of this CAFO, an enforcement action may be brought pursuant to Section 7003 of RCRA, 42 U.S.C. § 6973, or other statutory authority, should the EPA find that the 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.

81. Complainant reserves the right to take enforcement action against Respondent for any future violations of RCRA and the implementing regulations and to enforce the terms and conditions of this CAFO.
82. Except as expressly provided herein, nothing in this CAFO shall constitute or be construed as a release from any civil or criminal claim, 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 storage, 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.
83. This CAFO may be amended only by written agreement between EPA and Respondent.

#### **IX. OTHER APPLICABLE LAWS**

84. 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**

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

Alfred Politzer  
Assistant Regional Counsel  
United States Environmental Protection Agency, Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303

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

Granta Y. Nakayama P.C.  
Kirkland & Ellis LLP  
Environmental Counseling and Litigation  
655 Fifteenth Street, N.W.  
Washington D.C. 20005

#### **XI. SEVERABILITY**

87. 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

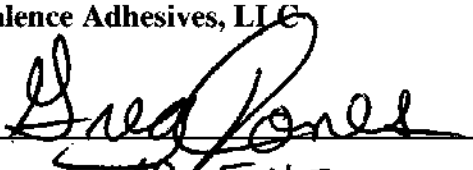
circumstances is held by any judicial or administrative authority to be invalid or unenforceable, the application of such provisions to other parties or circumstances and the remainder of the CAFO shall remain in force and shall not be affected thereby.

**XII. EFFECTIVE DATE**


88. The effective date of this CAFO is the date it is filed with the Regional Hearing Clerk.

**AGREED AND CONSENTED TO:**

**Covalence Adhesives, LLC**

By:  Dated: 12/9/10  
Print Title: V.P. EHS

**U.S. Environmental Protection Agency**

By:  for Dated: 12/16/10  
Dee Stewart  
Acting Branch Chief  
RCRA and OPA Enforcement and Compliance Branch  
RCRA Division

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4

IN THE MATTER OF: ) DOCKET NO.: RCRA-04-2010-4014(b)  
)  
COVALENCE ADHESIVES, LLC )  
2320 BOWLING GREEN ROAD )  
FRANKLIN, KENTUCKY 42134 ) PROCEEDING UNDER SECTION  
) 3008(a) OF THE RESOURCE  
) CONSERVATION AND RECOVERY  
) ACT, 42 U.S.C. § 6928(a)  
EPA ID NO.: KYD 062 979 158 )  
)  
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 20<sup>th</sup> day of December, 2010.

BY: Susan B. Schub  
Susan B. Schub  
Regional Judicial Officer  
United States Environmental Protection Agency, Region 4

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day filed the original and a true and correct copy of the foregoing Consent Agreement and the attached Final Order (CAFO), in the Matter of Covalence Adhesives, LLC., Docket Number: RCRA-04-2010-4014(b), on DEC 21 2010 2010, and on DEC 21 2010 2010, served the parties listed below in the manner indicated:

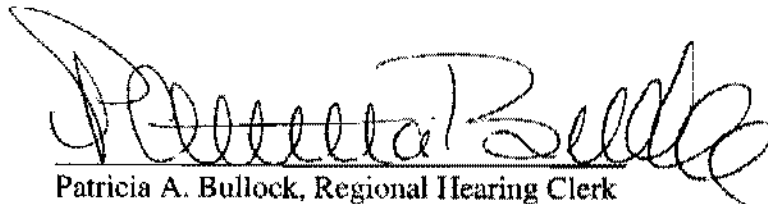
Alfred Politzer (Via EPA Internal Mail)  
Assistant Regional Counsel  
Office of Environmental Accountability  
United States Environmental Protection Agency, Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8909

Quantindra Smith (Via EPA Internal mail)  
RCRA and OPA Enforcement  
and Compliance Branch  
U.S. EPA, Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960

Granta Y. Nakayama, P.C. (Via Certified Mail – Return Receipt Requested)  
Kirkland & Ellis LLP  
Environmental Counseling and Litigation  
655 Fifteenth Street, N.W.  
Washington D.C. 20005

Date:

12-21-10



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