

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
ATLANTA, GEORGIA

HEARINGS CLERK

2009 MAY -1 PM 12:15

FEDERAL  
EPA REGION IV

In the Matter of: )  
)  
SABIC Innovative Plastics US LLC )  
One Plastics Drive )  
Burkville, Alabama 36752 )  
)  
Respondent. )  
\_\_\_\_\_ )

Docket No. TSCA-04-2009-2902(b)

**CONSENT AGREEMENT AND FINAL ORDER**

**I. Nature of the Action**

1. This is a civil penalty proceeding pursuant to Section 16(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2615(a), and pursuant to the Consolidated Rules of Practice Governing Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), 40 C.F.R. Part 22. Complainant is the Director of the Resource Conservation and Recovery Act (RCRA) Division, United States Environmental Protection Agency, Region 4 (EPA). Respondent is SABIC Innovative Plastics US LLC.
2. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 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 C.F.R. § 22.13(b), this Consent Agreement and Final Order (CAFO) will simultaneously commence and conclude this matter.

## **II. Preliminary Statements**

3. The Administrator of EPA promulgated rules in 40 C.F.R. Part 761, pursuant to Section 6(e) of TSCA, 15 U.S.C. § 2605. Failure to comply with any such rule constitutes a violation of Section 15 of TSCA, 15 U.S.C. § 2614. Any person who violates a provision of Section 15 of TSCA may be assessed a penalty of up to \$27,500 for each such violation occurring between January 30, 1997, and March 15, 2004, in accordance with Section 16(a) of TSCA and 40 C.F.R. Part 19, as amended. For each such violation occurring between March 15, 2004, and January 12, 2009, a penalty of up to \$32,500 may be assessed. For each such violation occurring after January 12, 2009, a penalty of up to \$37,500 may be assessed. Each day a violation continues may constitute a separate violation.
4. The authority to take action under Section 16(a) of TSCA, 15 U.S.C. § 2615(a), is vested in the Administrator of EPA. The Administrator of EPA has delegated this authority under TSCA to EPA Region 4 by EPA Delegation 12-2-A, dated May 11, 1994.
5. Pursuant to 40 C.F.R. § 22.5(c)(4) the following individual represents EPA in this matter and is authorized to receive service for EPA in this proceeding:

Stanley Tam  
RCRA and OPA Enforcement and Compliance Branch  
U.S. EPA Region 4  
61 Forsyth Street SW  
Atlanta, Georgia 30303-8960  
(404) 562-8577

### **III. Specific Allegations**

6. Respondent is a Generator of Polychlorinated Biphenyl (PCB) Waste operating in the State of Alabama and is a "person" as defined in 40 C.F.R. § 761.3.
7. On or about May 21, 2008, an inspection was conducted at Respondent's facility located at One Plastics Drive, in Burkville, Alabama, to determine compliance with regulations promulgated under Section 6(e) of TSCA pertaining to PCBs.
8. 40 C.F.R. § 761.40(a)(10) as incorporated by 40 C.F.R. § 761.65(c)(3) requires that each storage area used to store PCBs and PCB Items for disposal be marked with the appropriate label (referred to as M<sub>L</sub>). Respondent stores its PCB wastes in a sheet metal building with a coated concrete floor. At the time of inspection, fifty-six (56) drums of PCB waste (activated carbon used as catalyst) were stored in this building. The PCB storage area (the above described building) was not marked with an M<sub>L</sub>. Therefore, Respondent is in violation of 40 C.F.R. § 761.40(a)(10) as incorporated by 40 C.F.R. § 761.65(c)(3).
9. 40 C.F.R. § 761.65(c)(8) requires that PCB Items (such as PCB Containers) must be marked with the date when they were removed from service for disposal. At the time of inspection, 56 drums of PCB waste were stored in the PCB storage area. None of these PCB Containers was marked with the date the PCB waste was removed from service. Therefore, Respondent is in violation of 40 C.F.R. § 761.65(c)(8).

#### **IV. Consent Agreement**

10. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set forth above and neither admits nor denies the factual allegations set forth above.
11. Respondent waives its right to a hearing on the allegations contained herein and its right to appeal the proposed final order accompanying the consent agreement.
12. Respondent consents to the assessment of the penalty proposed by EPA and agrees to pay the civil penalty as set forth in this CAFO.
13. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with all relevant requirements of TSCA.
14. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to Section 16(a) of TSCA, for the specific violations alleged herein. Except as specifically provided in this CAFO, EPA reserves all other civil and criminal enforcement authorities, including the authority to address imminent hazards. Compliance with this CAFO shall not be a defense to any other actions subsequently commenced pursuant to Federal laws and regulations administered by EPA, and it is Respondent's responsibility to comply with said laws and regulations.
15. 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 TSCA.

**V. Final Order**

16. Respondent is assessed a civil penalty of TWENTY THOUSAND EIGHT HUNDRED TWENTY SIX DOLLARS (\$20,826), which shall be paid within 30 days from the effective date of this CAFO.
17. Respondent shall remit the civil penalty by either a cashier's or certified check made payable to the "Treasurer, United States of America," and shall send the check to the following address by U.S. Postal Service:

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
PO Box 979077  
St. Louis, MO 63197-9000

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

For payment submittal by any overnight mail service (Fed Ex, UPS, DHL, etc.), please use the following address:

U. S. Bank  
1005 Convention Plaza  
Mail Station SL-MO-C2GL  
St. Louis, MO 63101

Contact: Natalie Pearson (314) 418-4087

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

Regional Hearing Clerk  
U.S. EPA Region 4  
61 Forsyth Street SW  
Atlanta, Georgia 30303-8960

Stanley Tam  
RCRA and OPA Enforcement and Compliance Branch  
U.S. EPA Region 4  
61 Forsyth Street SW  
Atlanta, Georgia 30303-8960

and

Lucia Mendez  
Office of Environmental Accountability  
U.S. EPA Region 4  
61 Forsyth Street SW  
Atlanta, Georgia 30303-8960


19. 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. Any attempt by Respondent to deduct any such payments shall constitute a violation of this CAFO.
20. 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 this CAFO, if the penalty is not paid by the date required. A charge will also be assessed to cover the administrative costs, both direct and indirect, of overdue debts. In addition, a late payment penalty charge shall be applied on any principal amount not paid within 90 days of the due date.
21. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
22. This CAFO shall be binding upon the Respondent, its successors and assigns.
23. The undersigned representative of the party to this CAFO certifies that he or she is fully authorized by the party represented to enter into this CAFO and legally binds that party to this CAFO.

**VI. Effective Date**

24. 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:**

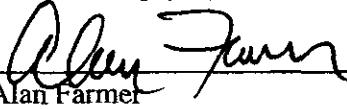
**Respondent:** SABIC Innovative Plastics US LLC  
**Docket No.:** TSCA-04-2009-2902(b)

By:  (Signature) Date: April 7, 2009

Name: Thomas J. Tsekouras (Typed or Printed)


Title: Site General Mgr., Burnsville, AL (Typed or Printed)

**Complainant:** U.S. Environmental Protection Agency

By:  Date: 4/23/09

G. Alan Farmer  
Director  
RCRA Division  
61 Forsyth Street SW  
Atlanta, Georgia 30303-8960

**APPROVED AND SO ORDERED** this 30<sup>th</sup> day of April, 2009.

By:   
Susan B. Schub  
Regional Judicial Officer

CERTIFICATE OF SERVICE

I hereby certify that I have this day filed a true and correct copy of the foregoing Consent Agreement and Final Order, In the Matter of: SABIC Innovative Plastics US LLC, Docket No. TSCA-04-2009-2902(b), and served same on the date shown below, to the parties listed in the manner indicated:

Stanley Tam  
RCRA and OPA Enforcement  
And Compliance Branch  
RCRA Division  
U.S. EPA, Region 4  
61 Forsyth St., SW  
Atlanta, GA 30303

(Via EPA's internal mail)

Lucia Mendez  
U.S. EPA, Region 4  
Office of Environmental Accountability  
61 Forsyth St., SW  
Atlanta, GA 30303

(Via EPA's internal mail)

(Respondent)

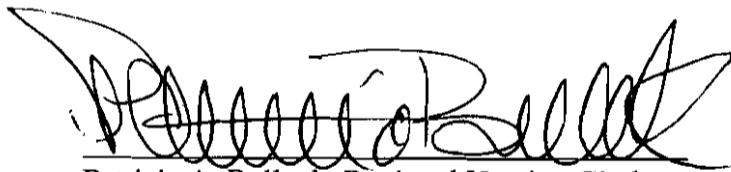
(Via Certified Mail, Return Receipt Requested)

Mr. Alphonse McMahon, Counsel  
SABIC Innovative Plastics US LLC  
1 Lexan Lane  
Mount Vernon, IN 47620

Mr. Thomas J. Tsekouras  
SABIC Innovative Plastics US LLC  
One Plastics Drive  
Burkville, AL 36752

via first class mail

Date: 5-1-09



Patricia A. Bullock, Regional Hearing Clerk  
United States Environmental  
Protection Agency, Region 4  
Atlanta Federal Center  
61 Forsyth Street, S.W.  
Atlanta, GA 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 5/1/09 (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

Other Receivable

Not sent with bill

This is an original debt

Oversight Billing - Cost Package not required

This is a modification

PAYEE: SABIC Innovative Plastics (Name of person and/or Company/Municipality making the payment)

The Total Dollar Amount of the Receivable: \$ 20,826 (If installments, attach schedule of amounts and respective due dates. See Other side of this form.)

The Case Docket Number: TSCA 04 2009 2902(b)

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)