



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

MAR 17 2010

Certified Mail - Return Receipt Requested

Robert D. Wilson, Esq.  
Robert D. Wilson Co., L.P.A.  
16716 Chillicothe Road, Suite 100  
Chagrin Falls, Ohio 44023-4529

Re: Chemence, Inc.; Docket No. TSCA-04-2010-2708(b)

Dear Mr. Wilson:

Enclosed is a copy of the ratified Consent Agreement and Final Order (CAFO) in the above-referenced matter. The original CAFO has been filed with the Regional Hearing Clerk and served on the parties as directed in Section 22.6 of the Consolidated Rules of Practice, 40 C.F.R. Part 22.

As stated in Section V of the CAFO, the assessed penalty of \$13,235.28 is due within one year from the effective date. Please ensure that the face of your cashier's or certified checks include the name of the company and the Docket Number of this case. Penalty payment questions should be directed to Ms. Lori Weidner either by telephone at (513) 487-2125 or by written correspondence to her attention at the U.S. Environmental Protection Agency's (EPA's) Cincinnati Accounting Operations address identified in the CAFO. Should you have any questions about this matter or your compliance status in the future, please call me at (404) 562-8979 or Mr. Verne George at (404) 562-8988.

Also enclosed is a copy of a document entitled "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 Securities and Exchange Commission (SEC) any environmental enforcement actions taken by EPA.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeaneanne M. Gettle".

Jeaneanne M. Gettle  
Chief  
Pesticides and Toxic  
Substances Branch

Enclosures

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

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UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
ATLANTA, GEORGIA

In the Matter of: )  
 )  
Chemence, Inc. )  
 )  
 )  
Respondent. )  
\_\_\_\_\_ )

Docket No. TSCA-04-2010-2708(b)

RECEIVED  
EPA REGION 4  
2010 MAR 17 AM 9:00

**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 Air, Pesticides, and Toxics Management Division, United States Environmental Protection Agency, Region 4 (EPA). Respondent is Chemence, Inc. (hereinafter, "Respondent").
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.

Chemence, Inc.  
Docket No. TSCA-04-2010-2708(b)

## **II. Preliminary Statements**

3. Pursuant to Section 15 of TSCA, 15 U.S.C. § 2614, it is unlawful for any person to:  
(1) fail or refuse to comply with any rule or order promulgated pursuant to Sections 4, 5, 8, 12 or 13 of TSCA (15 U.S.C. § 2603, 15 U.S.C. § 2604, 15 U.S.C. § 2607, 15 U.S.C. § 2611 or 15 U.S.C. § 2612); (2) use for commercial purposes a chemical substance or mixture that the person knew or had reason to know was manufactured, imported, processed, or distributed in commerce in violation of TSCA Section 5, 15 U.S.C. § 2604; (3) fail to maintain records, submit reports or information, or permit access to or allow copying of records as required by TSCA; and (4) refuse to permit entry or inspection as authorized by Section 11 of TSCA, 15 U.S.C. § 2610. 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, in accordance with Section 16(a) of TSCA and 40 C.F.R. Part 19, as amended. For a violation occurring after March 15, 2004, through January 9, 2009, a penalty of up to \$32,500 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. Complainant will file the original CAFO with the Regional Hearing Clerk and a copy will be mailed to the Respondent. To determine the confidential business information (CBI) that was deleted (CBI deleted) from this CAFO, Complainant or Respondent should refer to the Respondent's 2006 Inventory Update Report dated September 25, 2007.
6. 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:

Verne George  
Chemical Products and  
Asbestos Section  
U.S. EPA Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303-8960  
(404) 562-8971

**III. Specific Allegations**

7. Respondent owns and operates a chemical manufacturing plant located at 185 Bluegrass Valley Parkway, Alpharetta, Georgia.
8. Respondent is a small manufacturer as the term is defined in 40 C.F.R. § 704.3.
9. On September 25, 2007, an authorized agent of EPA Region 4 conducted an inspection at Respondent's place of business pursuant to Section 11(a) of TSCA, 15 U.S.C. § 2610(a).
10. In 2005, Respondent manufactured and imported a reportable quantity of [CBI deleted] hereinafter referred to as Chemical A.
11. Chemical A was subject to the 2006 Inventory Update Reporting (IUR) as described in 40 C.F.R. § 710.45.
12. Pursuant to 40 C.F.R. § 710.48, Respondent is a manufacturer/importer that was subject to the 2006 IUR.
13. As referenced in 40 C.F.R. § 710.53, the 2006 IUR submission period was August 25, 2006, through March 23, 2007.
14. On September 25, 2007, Respondent submitted the 2006 IUR Report for Chemical A to EPA in Washington, D.C..
15. Respondent failed to submit Chemical A's 2006 IUR Report to EPA during the submission period described in 40 C.F.R. § 710.53.

16. Pursuant to 40 C.F.R. § 710.1(c), it is unlawful for any person to fail or refuse to submit information required under the IUR Regulations.

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

17. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set forth above, but neither admits nor denies the factual allegations set forth above.
18. 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.
19. Respondent consents to the assessment of the penalty proposed by EPA and agrees to pay the civil penalty as set forth in this CAFO.
20. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with the TSCA Regulations referenced in this CAFO.
21. 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.
22. 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**

23. Respondent is assessed a civil penalty of ***Thirteen Thousand, One Hundred Fifty Three Dollars*** (\$13,153.00). Four payments will be made to complete payment of the entire civil penalty including interest. The first payment is due within thirty (30) days of the effective date of this CAFO and subsequent payments will be due in ninety (90) day intervals thereafter. Including the civil penalty and interest, the total amount that will be paid upon the completion of all payments will be **Thirteen Thousand, Two Hundred Thirty Five Dollars and Twenty Eight Cents** (\$13,235.28).

24. Respondent shall make payments in accordance with the following schedule.

<u>Payment Number</u>	<u>Payment Due Date</u>	<u>Payment Due</u>
1.	30 days of filing of CAFO	\$3,308.82
2.	120 days of filing of CAFO	\$3,308.82
3.	210 days of filing of CAFO	\$3,308.82
4.	300 days of filing of CAFO	\$3,308.82

25. Respondent shall remit each quarterly payment by either a cashier's or certified check made payable to the "Treasurer, United States of America," and shall send each 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, Missouri 63197-9000.

**Each 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.):

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

Contact: Natalie Pearson (314) 418-4087

26. At the time of each quarterly 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, S.W.  
Atlanta, Georgia 30303-8960;

Verne George  
Chemical Products and  
Asbestos Section  
U.S. EPA Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303-8960;

and

Saundi Wilson  
Office of Environmental Accountability  
U.S. EPA - Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303-8960.

27. 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.
28. 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.

29. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
30. This CAFO shall be binding upon the Respondent, its successors and assigns.
31. 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.

**The remainder of this page is intentionally left blank.**



**VI. Effective Date**

32. 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:** Chemence, Inc.  
**Docket No.:** TSCA-04-2010-2708(b)

By: Robert D. Wilson (Signature) Date: 3/1/10

Name: Robert D. Wilson (Typed or Printed)

Title: Secretary (Typed or Printed)

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

By: Kenneth R. Lapierre Date: 3/9/2010

Kenneth R. Lapierre Acting Director  
Air, Pesticides and Toxics  
Management Division  
61 Forsyth Street  
Atlanta, Georgia 30303-8960

**APPROVED AND SO ORDERED** this 16<sup>th</sup> day of March, 2010.

By: Susan B. Schub  
Susan B. Schub  
Regional Judicial Officer

**CERTIFICATE OF SERVICE**

I hereby certify that on the date set out below, I filed the original and one copy of the foregoing Consent Agreement and Final Order and served a true and correct copy of the foregoing Consent Agreement and Final Order, in the Matter of: Chemence, Inc., Docket Number: TSCA-04-2010-2708(b), to the addressees listed below.

Robert D. Wilson  
Robert D. Wilson Co., L.P.A.  
16716 Chillicothe Road, Suite 100  
Chagrin Falls, Ohio 44023-4529

(via Certified Mail, Return Receipt Requested)

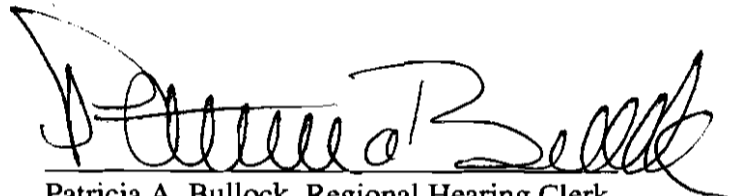
Verne George  
Chemical Products and  
Asbestos Section  
U.S. EPA Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303

(via EPA's internal mail)

Robert Caplan, Attorney  
Office of Environmental Accountability  
U.S. EPA, Region 4  
61 Forsyth St., SW  
Atlanta, Georgia 30303

(via EPA's internal mail)

Date: 3-17-10



Patricia A. Bullock, Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 4  
Atlanta Federal Center  
61 Forsyth St., SW  
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 \_\_\_\_\_ (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: Chemence Inc. (Name of person and/or Company/Municipality making the payment)

The Total Dollar Amount of the Receivable: \$ 13,235.28 (If installments, attach schedule of amounts and respective due dates. See Other side of this form.)

The Case Docket Number: 75th 04 2010 2708 (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)