



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

JUN 10 2009

REPLY TO THE ATTENTION OF:  
LR-8J

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

Mr. Thomas J. Gillespie, Jr.  
Chairman and CEO  
Lockhart Chemical Company  
2873 West Hardies Road  
Gibsonia, Pennsylvania 15044

Re: Consent Agreement and Final Order  
Lockhart Chemical Company  
EPA ID No.: MID 033 674 730  
Docket No: RCRA-05-2009-0011

**2750942R006**

Dear Mr. Gillespie:

Enclosed please find an original signed fully-executed Consent Agreement and Final Order (CAFO) in resolution of the above case. The originals were filed on JUN 10 2009 with the Regional Hearing Clerk (RHC).

Please pay the civil penalty in the amount of \$101,900 in the manner prescribed in paragraph 86 of the CAFO. Second, please submit a notification letter in accordance with paragraph 87 of the CAFO. Your payment is due within 30 calendar days of the effective date of the CAFO. Also, enclosed is a Notice of Securities and Exchange Commission Registrant's Duty to Disclose Environmental Legal Proceedings.

Thank you for your cooperation in resolving this matter.

Sincerely,

*Willie H. Harris*  
Willie H. Harris, P.E.  
Chief, RCRA Branch  
Land and Chemicals Division

Enclosure

cc: John Craig, MDEQ (w/enclosure)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

In the Matter of:	)	Docket No. RCRA-05-2009-0011
	)	
Lockhart Chemical Company	)	Proceeding to Commence and Conclude
4302 James P. Cole Boulevard	)	an Action to Assess a
Flint, Michigan 48505	)	Civil Penalty
	)	Under Section 3008(a) of the Resource
U.S. EPA ID: MID 033 674 730	)	Conservation and Recovery Act,
	)	42 U.S.C. § 6928(a)
	)	
Respondent.	)	
<hr/>		

RECEIVED  
JUN 10 2009

Consent Agreement and Final Order REGIONAL HEARING CLERK  
USEPA  
REGION 5

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 3008(a) of the Solid Waste Disposal Act, as amended, also known as the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6928(a), and Sections 22.13(b) and 22.18(b)(2) and (3) of the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* (Consolidated Rules) as codified at 40 C.F.R. Part 22.
2. The Complainant is the Director of the Land and Chemicals Division, United States Environmental Protection Agency (U.S. EPA), Region 5.
3. U.S. EPA provided notice of commencement of this action to the State of Michigan pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).
4. Respondent is Lockhart Chemical Company, a corporation incorporated under the laws of Pennsylvania, and a corporation doing business in the State of Michigan.

5. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

6. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

7. Respondent consents to the assessment of the civil penalty specified in this CAFO, and to the terms of this CAFO.

### **Jurisdiction and Waiver of Right to Hearing**

8. Jurisdiction for this action is conferred upon U.S. EPA by Sections 2002(a)(1), 3006(b), and 3008 of RCRA; 42 U.S.C. §§ 6912(a)(1), 6926(b), and 6928.

9. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

10. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO, and its right to appeal this CAFO.

11. Respondent certifies that it is complying fully with RCRA, 42 U.S.C. §§ 6901 – 6939e and the regulations at 40 C.F.R. §§ 260.1 – 279.82.

### **Statutory and Regulatory Background**

12. U.S. EPA has promulgated regulations, codified at 40 C.F.R. Parts 260 through 279, governing generators and transporters of hazardous waste and facilities that treat, store, and dispose of hazardous waste, pursuant to sections 3002, 3003, 3004, and 3005, of RCRA, 42 U.S.C. §§ 6922, 6923, 6924, and 6925.

13. Pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, the Administrator of U.S. EPA may authorize a state to administer the RCRA hazardous waste program in lieu of the

federal program when the Administrator finds that the state program meets certain conditions. Any violation of regulations promulgated pursuant to Subtitle C (Sections 3001-3023 of RCRA, 42 U.S.C. §§ 6921-6939e) or any state provision authorized pursuant to Section 3006 of RCRA, constitutes a violation of RCRA, subject to the assessment of civil penalties and issuance of compliance orders as provided in Section 3008 of RCRA, 42 U.S.C. § 6928.

14. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the Administrator of U.S. EPA granted the State of Michigan final authorization to administer a state hazardous waste program in lieu of the federal government's base RCRA program effective October 30, 1986. 51 Fed. Reg. 36804 (October 16, 1986). U.S. EPA granted authorization for changes to Michigan's program on November 24, 1989, effective January 23, 1990 (54 FR 48608); on April 23, 1991, effective June 24, 1991 (56 FR 18517); on October 1, 1993, effective November 30, 1993 (58 FR 51244); on January 13, 1995, effective January 13, 1995 (60 FR 3095); on February 8, 1996, effective April 8, 1996 (61 FR 4742); on November 14, 1997, effective November 14, 1997 (62 FR 61175); on March 2, 1999, effective June 1, 1999 (64 FR 10111); on July 31, 2002, effective July 31, 2002 (67 FR 49617); and on March 9, 2006, effective March 9, 2006 (71 FR 12141). The U.S. EPA authorized Michigan regulations are codified at Michigan Administrative Code (MAC) 299.9101 et seq. See 40 C.F.R. § 272.1151 et seq.

15. Under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), U.S. EPA may issue an order assessing a civil penalty for any past or current violation, requiring compliance immediately or within a specified period of time, or both. The Administrator of U.S. EPA may assess a civil penalty of up to \$25,000 per day for each violation of Subtitle C of RCRA according to Section 3008 of RCRA, 42 U.S.C. § 6928. The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, 31

U.S.C. § 3701, required U.S. EPA to adjust its penalties for inflation on a periodic basis. Pursuant to the Civil Monetary Penalty Inflation Adjustment Rule, published at 40 C.F.R. Part 19, U.S. EPA may assess a civil penalty of up to \$25,000 per day for each such violation that occurred prior to January 30, 1997; a civil penalty of up to \$27,500 per day of violation occurring on or after January 30, 1997 through March 14, 2004; a civil penalty of up to \$32,500 per day of violation occurring on or after March 15, 2004 through January 11, 2009; and a civil penalty of up to \$37,500 per day of violation occurring on or after January 12, 2009. RCRA Section 3008(g), 42 U.S.C. § 6928(g), as amended. *See* 61 Fed. Reg. 69360 (Dec. 31, 1996), 69 Fed. Reg. 7121 (Feb. 13, 2004), and 73 Fed. Reg. 75340 (Dec. 11, 2008).

#### **Factual Allegations and Alleged Violations**

16. The Respondent is Lockhart Chemical Company, a corporation incorporated under the laws of Pennsylvania, which is the current owner and operator of a facility located at 4302 James P. Cole Boulevard, Flint, Michigan 48505 (“Lockhart” or “Respondent” or “Facility”).

17. Respondent was and is a “person” as defined by MAC 299.9106(i) and 40 C.F.R. § 260.10, and Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).

18. On February 1, 2006, representatives of U.S. EPA and the MDEQ conducted an inspection of the facility.

19. Based upon the inspection results, U.S. EPA issued Lockhart a Notice of Violation (NOV) on July 14, 2006.

20. Lockhart submitted a letter and records to the U.S. EPA in response to the NOV on or about August 9, 2006.

21. On September 17, 2007, U.S. EPA issued a Section 3007 “Request for Information” (Information Request) to Lockhart, which required Lockhart to submit certain information relating to hazardous waste activities at its facility.

22. Lockhart submitted a response, dated October 12, 2007, to the Section 3007 Information Request.

23. The facility consists of land and structures, other appurtenances, and improvements on the land used for treating, storing, or disposing of hazardous waste.

24. Respondent’s processes at the facility produce several hazardous wastes identified or listed in MAC R. 299.9201-9230 or cause a hazardous waste to become subject to regulation under MAC 299.9101-299.11107 [40 C.F.R. Parts 260-270].

25. Respondent is a “generator,” as that term is defined in MAC R. 299.9104(a) [40 C.F.R. § 260.10].

26. Respondent has never filed, with the U.S. EPA or with the Michigan Department of Environmental Quality (MDEQ), a RCRA Part A Permit Application for the storage of hazardous waste at the facility.

27. Respondent has never operated under interim status, pursuant to MAC R 299.9502 [40 CFR § 270.1(a)], for the storage of RCRA hazardous waste.

28. At all times relevant to this Complaint, Respondent generated hazardous waste, including butyl alcohol/water (EPA Hazardous waste number D001), methanol/water (EPA Hazardous waste number D001), lab waste (EPA Hazardous waste numbers D001, D005, D021, D022, D035, F002, F003, and F005), and Barium waste (EPA Hazardous waste number D005).

29. Lockhart generated waste butyl alcohol as a result the production of butyl esters.

30. A sample of the waste butyl alcohol collected in December 2006 had a flash point of 114 degrees Fahrenheit (°F).

31. Lockhart generated waste methanol from the production of gelled coatings and the production of overbased barium sulfonate.

32. A sample of the waste methanol collected in December 2006 had a flash point of 70 degrees Fahrenheit (°F).

33. MAC R 299.9212(1)(a) [40 CFR § 261.21] provides that a solid waste exhibits the ignitability characteristic (EPA hazardous waste number D001), if a representative sample has a flashpoint less than 60 degrees Celsius (140 °F).

34. The waste methanol and waste butyl alcohol generated by Respondent exhibited the characteristic of ignitability as defined in MAC R 299.9212(1)(a) [40 CFR§ 261.21].

35. At the time of the inspection, Lockhart accumulated hazardous waste methanol in Tank 52 and hazardous waste butyl alcohol in Tank 255.

36. At the time of the inspection, Respondent had not applied for or received a variance from the secondary containment requirements for its tank systems as provided for by MAC R 299.9306(1)(a)(ii) [40 CFR 262.34(a)(1)(ii)] and 40 CFR § 265.193(g).

37. The hazardous waste methanol and butyl alcohol have volatile organic concentrations that exceed 500 parts per million (ppm) by weight.

38. In response to the Notice of Violation, Lockhart provided that the maximum organic vapor pressure of the hazardous waste methanol is 127.1 millimeters of mercury (16.95 kilo Pascals) at 25 degrees Celsius.

39. In response to the Notice of Violation, Lockhart provided that the maximum organic vapor pressure of the hazardous waste butyl alcohol is 7 millimeters of mercury (0.9333 kilo Pascals).

40. Tanks 52 and 255 met the definition of a tank under MAC R 299.9108(a) [40 CFR § 260.10].

41. Prior to the inspection, Respondent generated more than 1,000 kilograms (2,205 pounds) of hazardous waste per month, and was a large quantity generator.

42. Respondent is subject to the regulations promulgated pursuant to Subtitle C of RCRA, 42 U.S.C. §§ 6921-6930, or the analogous Michigan regulations as part of the applicable state hazardous waste management program for the state of Michigan, or both.

**COUNT 1: FAILURE TO MEET THE SECONDARY CONTAINMENT REQUIREMENTS FOR THE HAZARDOUS WASTE TANK STORAGE SYSTEM, FAILURE TO OBTAIN A TANK CERTIFICATION, AND FAILURE TO CONDUCT DAILY INSPECTIONS OF THE HAZARDOUS WASTE TANK SYSTEMS**

43. Complainant incorporates paragraphs 1 through 42 of this Complaint as though set forth in this paragraph.

44. Under MAC R 299.9306(1)(a)(ii) [40 C.F.R. 262.34(a)(1)(ii)], a generator may accumulate hazardous waste on-site without obtaining a construction permit or operating license if the hazardous waste is placed in tanks and the generator complies with 40 C.F.R. part 265, subpart J (40 C.F.R. §§ 265.190 through 265.202).

45. The parallel post-1980 tank requirements can be found at 40 C.F.R. part 264, subpart J (40 C.F.R. §§ 264.190 through 264.202).

### Failure to Meet Secondary Containment Requirements

46. Under 40 C.F.R. § 265.193(a)(4), existing tank systems the age of which cannot be documented, secondary containment that meets the requirements of 40 C.F.R. § 265.193, must be provided within eight years of January 12, 1988; but if the age of the facility is greater than seven years, secondary containment must be provided by the time the facility reaches 15 years of age, or within two years of January 12, 1988, whichever comes later.

47. Lockhart representatives stated during the February 1, 2006 inspection that the facility was built in 1972 and that most tanks were installed at that time, but they could not provide documentation on the age of the tanks.

48. At the time of the inspection, Lockhart indicated that the hazardous waste methanol / butyl alcohol were stored in Tanks 52 and 255, respectively.

49. Under 40 C.F.R. § 265.193(e)(1)(iii) secondary containment for liner systems must be free of cracks or gaps.

50. At the time of the inspection, the secondary containment system for tanks 52 and 255 had cracks and gaps.

51. Respondent failed to comply with the secondary containment requirements for tank systems found at MAC R 299.9615 [40 C.F.R. Part 264, Subpart J.].

52. By failing to comply with these secondary containment requirements, Respondent failed to meet conditions for an exemption from licensing provided under MAC R 299.9306(1)(a)(ii) [40 C.F.R. § 262.34(a)(1)(ii)].

### Failure to Obtain a Tank Integrity Assessment and Certification

53. 40 C.F.R. § 265.193(a)(4) and MAC R 299.9615(7) provide that for those existing tank systems for which the age cannot be documented, secondary containment that meets the

requirements of MAC R 299.9601(1) and (2)(h) and 299.9615 [40 C.F.R. § 265.193], must be provided within eight years of January 12, 1988; but if the age of the facility is greater than seven years, secondary containment must be provided by the time the facility reaches 15 years of age, or within two years of January 12, 1988, whichever comes later.

54. At all times relevant to this Complaint, the hazardous waste tank systems were subject to the secondary containment requirements of MAC R 299.9601(1) and (2)(h) and 299.9615 [40 C.F.R. § 265.193].

55. Respondent's hazardous waste tank systems failed to comply with the secondary containment requirements of MAC R 299.9601(1) and (2)(h) and 299.9615 [40 C.F.R. § 265.193(e)(1)(iii)].

56. 40 C.F.R. § 265.191(a) requires that for each existing tank system that does not have secondary containment meeting the requirements of 40 C.F.R. § 265.193 [MAC R 299.9601(1) and (2)(h) and 299.9615], the owner or operator must determine that the tank is not leaking or unfit for use. The owner and operator must obtain and keep on file at the facility a written assessment reviewed and certified by an independent, qualified, registered professional engineer in accordance with 40 C.F.R. § 270.11(d) [MAC R 299.9504], that attests to the tank systems integrity by January 12, 1988.

57. At the time of the inspection, Respondent did not have an assessment of the tank for tank systems 52 and 255 integrity reviewed and certified by an independent, qualified, registered professional engineer; therefore, Respondent did not comply with 40 C.F.R. § 265.191(a) [MAC R 299.9601(1) and (2)(h) and 299.9615].

58. Respondent failed to comply with the existing tank system integrity assessment requirements found at MAC R 299.9615 [40 C.F.R. § 264.191(a)].

59. In addition, Respondent failed to comply with the existing tank system integrity assessment requirements found at MAC R 299.9601(1) and (2)(h) and 299.9615 [40 C.F.R. § 265.191(a)].

60. By failing to comply with the existing tank system integrity assessment requirements, Respondent failed to meet a condition for an exemption from licensing provided under MAC R 299.9306(1)(a)(ii) [40 C.F.R. § 262.34(a)(1)(ii)].

Failure to Conduct Inspections of the Hazardous Waste Tank Systems

61. 40 C.F.R. § 265.195 [MAC R 299.9601(1) and (2)(h) and 299.9615] requires the owner or operator of a facility to inspect and document in the facility operating record at least once each operating day: 1) to ensure that overfill and spill control equipment, including waste feed cutoff systems, bypass systems and drainage systems are in good working order; 2) to detect any corrosion or releases of wastes from the aboveground portions of tank systems; 3) to review data gathered from monitoring and leak detection equipment, including pressure or temperature gauges and monitoring wells, to ensure that the tank system is being operated according to its design; and 4) to inspect construction materials and the area immediately surrounding the externally accessible portion of tank systems, including the secondary containment systems, to detect erosion or signs of releases of hazardous waste.

62. At the time of the inspection, Lockhart personnel stated that inspections of the hazardous waste tank systems were not being conducted.

63. In a response to the NOV, Lockhart indicated that inspections of hazardous waste units that include the storage tanks are only being conducted on a weekly basis.

64. Respondent failed to inspect and document daily inspections of the hazardous waste tank systems, as required by 40 C.F.R. § 264.195 [MAC R 299.9615].

65. Respondent failed to inspect and document daily inspections of the hazardous waste tank systems, as required by 40 C.F.R. § 265.195 [MAC R 299.9601(1) and (2)(h) and 299.9615].

**COUNT 2: FAILURE TO INSPECT AIR CONTROL SYSTEMS**

66. Complainant incorporates paragraphs 1 through 42 of this Complaint as though set forth in this paragraph.

67. Under MAC R 299.9306(1)(a)(ii) [40 C.F.R. 262.34(a)(1)(ii)], a generator may accumulate hazardous waste on-site without obtaining a construction permit or operating license if the hazardous waste is placed in tanks and the generator complies with 40 C.F.R. part 265, subpart CC (40 C.F.R. §§ 265.1080 through 265.1091)[MAC R 299.2601(3) and 11103(p)].

68. 40 C.F.R. § 265.1085(c)(4) [MAC R 299.2601(3) and 11103(p)] requires the owner/operator to inspect air emission control equipment.

69. At the time of the inspection, Lockhart representatives indicated that tanks 52 and 255 store hazardous waste methanol and hazardous waste butyl alcohol, respectively, prior to shipment for off-site disposal.

70. At the time of the inspection, Lockhart failed to inspect the air emission control equipment for the tanks.

71. Respondent failed to conduct inspections of its air emission control equipment for its tank systems in violation of 40 C.F.R. § 264.1084(c)(4) [MAC R 299.11003(m)].

72. In addition, Respondent failed to conduct inspections of its air emission control equipment for its tank systems in violation of 40 C.F.R. § 265.1085(c)(4) [MAC R 299.2601(3) and 11003(p)].

**COUNT 3: STORAGE OF HAZARDOUS WASTE WITHOUT A CONSTRUCTION PERMIT OR OPERATING LICENSE AND FAILURE TO PROPERLY LABEL TANKS OF HAZARDOUS WASTE**

73. Complainant incorporates paragraphs 1 through 42 of this Complaint as though set forth in this paragraph.

74. Pursuant to MAC R 299.9306(1)(c) [40 C.F.R. § 262.34(a)(3)], a generator may accumulate hazardous waste in tanks and containers if each container and tank is labeled or marked clearly with the words “Hazardous Waste.”

75. At the time of the inspection, Lockhart failed to label tanks 52 and 255, which stored hazardous waste, with the words “Hazardous Waste.”

76. By failing to label tanks with the words “Hazardous Waste,” Respondent failed to meet a condition for an exemption from licensing provided under MAC R 299.306(1)(c) [40 C.F.R. § 262.34(a)(3)].

77. Respondent did not satisfy the conditions at MAC R 299.9306(1)(c) necessary to exempt it from the requirement to obtain construction permit or operating license for the storage of hazardous waste. Respondent stored hazardous waste without a permit or interim status in violation of Section 3004(a) of RCRA, 42 U.S.C. § 6924(a).

**COUNT 4: FAILURE TO INCLUDE THE PROPER SHIPPING DESCRIPTION ON MANIFESTS**

78. Complainant incorporates paragraphs 1 through 42 of this Complaint as though set forth in this paragraph.

79. MAC R 299.9304(2)(e) [40 C.F.R. § 262.20(c), Appendix to 40 C.F.R. Part 262] requires that a hazardous waste generator who transports or offers for transportation, a hazardous waste for off-site treatment, storage, or disposal use a manifest form which contains the description of the waste required by the regulations of the Department of Transportation in 49

C.F.R. §§ 172.101, 172.202, 172.203.

80. 49 C.F.R. § 172.101(c)(9) requires the proper shipping name to include the word “Waste” preceding the proper shipping name of the material.

81. Uniform hazardous waste manifest records indicate that Respondent caused to have shipped hazardous waste butyl alcohol and hazardous waste methanol without the proper shipping description. Lockhart failed to include the word “Waste” in the shipping description for hazardous waste shipments documented on the following Michigan manifests: MI10107727, MI10040302, MI9982815, MI7134805, MI9889389, and MI9733467.

82. Lockhart failed to comply with the manifest shipping description as required by MAC R 299.9304(2)(e) [40 C.F.R. § 262.20(c), Appendix to 40 C.F.R. Part 262].

83. Respondent did not comply with the requirements of MAC R 299.9304(2)(e) [40 C.F.R. § 262.20(c), Appendix to 40 C.F.R. Part 262]. Therefore, Respondent failed to comply with Section 3002(a) of RCRA, 42 U.S.C. § 6924(a).

#### **Consent Agreement**

84. Respondent has demonstrated and hereby certifies that it is now in compliance with the requirements that formed the basis of the allegations in the Complaint. Specifically, Respondent has submitted information to EPA and certifies that it: 1) has ceased storing hazardous waste in tank systems; 2) discontinued several production processes and is generating less than 1,000 kilograms per month; and 3) is including the word “Waste” in its manifest shipping description.

85. Pursuant to Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), Complainant determined that an appropriate civil penalty to settle this action is \$101,900. In determining the penalty amount, Complainant took into account the seriousness of the violation, Respondent’s

ability to pay a penalty, and any good faith efforts to comply with the applicable requirements.

Complainant also considered U.S. EPA's *RCRA Civil Penalty Policy*, dated June 23, 2003.

86. Within 30 days after the effective date of this CAFO, Respondent must pay a \$101,900 civil penalty for the RCRA violations. Respondent must pay the penalty by Automated Clearinghouse (ACH, also known as REX or remittance express) by contacting:

Automated Clearinghouse (ACH) for receiving US currency  
PNC Bank  
808 17th Street, NW  
Washington, D.C. 20074  
Contact: Jesse White  
301-887-6548  
ABA = 051036706  
Transaction Code 22 – checking  
Environmental Protection Agency  
Account 310006  
CTX Format

87. A notification letter, stating, Respondent's name, the case title, Respondent's complete address, the case docket number and the billing document number should be sent when payment is made. Respondent must send a copy of the letter to:

Paul Atkociunas (LR-8J)  
RCRA Branch  
U.S. EPA, Region 5  
77 West Jackson Blvd.  
Chicago, IL 60604

Thomas J. Kenney (C-14J)  
Office of Regional Counsel  
U.S. EPA, Region 5  
77 West Jackson Blvd.  
Chicago, IL 60604

88. This civil penalty is not deductible for federal tax purposes.

89. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any amount overdue from the date payment

was due at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1). Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a 6 percent per year penalty on any principal amount 90 days past due.

### **General Provisions**

90. This CAFO resolves only Respondent's liability for federal civil penalties for the violations and facts alleged in the CAFO.

91. This CAFO does not affect the right of the U.S. EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

92. This CAFO does not affect Respondent's responsibility to comply with RCRA and other applicable federal, state, local laws or permits.

93. This CAFO is a "final order" for purposes of 40 C.F.R. § 22.31, the U.S. EPA's RCRA Civil Penalty Policy, and the U.S. EPA's Hazardous Waste Civil Enforcement Response Policy (December 2003).

94. The terms of this CAFO bind Respondent, its successors, and assigns.

95. Each person signing this agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

96. Each party agrees to bear its own costs and attorney's fees in this action.

97. This CAFO constitutes the entire agreement between the parties.

**Lockhart Chemical Company, Respondent**

Date May 18, 2009

  
Thomas J. Gillespie, Jr., Chairman & CEO  
Lockhart Chemical Company

**United States Environmental Protection Agency, Complainant**

Date June 3, 2009

  
Margaret M. Guerriero  
Director  
Land and Chemicals Division

**In the Matter of:**  
**Lockhart Chemical Company**  
**Docket No. RCRA-05-2009-0011**

**Final Order**

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

6/9/09  
Date

*Bharat Mathur*  
Bharat Mathur  
Acting Regional Administrator  
EPA Region 5

**RECEIVED**  
JUN 10 2009  
REGIONAL HEARING CLERK  
USEPA  
REGION 5

**CASE NAME:** Lockhart Chemical Company  
**DOCKET NO:** RCRA-05-2009-0011

**CERTIFICATE OF SERVICE**

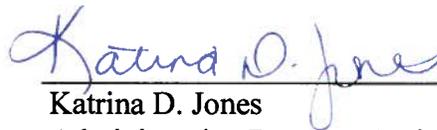
I hereby certify that today, I filed the original of this **Consent Agreement and Final Order** and this **Certificate of Service** in the office of the Regional Hearing Clerk, (E-19J), United States Environmental Protection Agency, Region 5, 77 W. Jackson Blvd., Chicago, IL 60604-3590.

I further certify that I then caused true and correct copies of the filed document to be mailed via Certified Mail, Return Receipt Requested to the following:

Mr. Thomas J. Gillespie, Jr.  
Chairman and CEO  
Lockhart Chemical Company  
2873 West Hardies Road  
Gibsonia Pennsylvania 15044

Return Receipt # 7001 0320 0005 8915 6692

Dated: 6/10/09



Katrina D. Jones  
Administrative Program Assistant  
U.S. Environmental Protection Agency  
Land and Chemicals Division -RCRA Branch  
77 W. Jackson Boulevard - LR-8J  
Chicago, IL 60604-3590  
(312) 886-2871

**RECEIVED**  
JUN 10 2009  
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