CANAL PROTECTION

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

AUB 0 3 2010

CERTIFIED MAIL RETURN RECEIPT REQUESTED

Mr. Brian Hamel VP Engineering InChem Corporation 800 Cel-River Road Rock Hill, South Carolina 29730

SUBJECT:

InChem Corporation

Consent Agreement and Final Order Docket No. EPCRA-04-2010-2065(b)

Dear Mr. Hamel:

Enclosed please find an executed copy of the Consent Agreement and Final Order (CAFO) that resolves the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) matter (Docket No. EPCRA-04-2010-2065(b)) involving InChem Corporation. The CAFO was filed with the Regional Hearing Clerk, as required by 40 C.F.R. Part 22 and became effective on the date of the filing.

Also 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 Environmental Protection Agency (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 Mr. Jyoti Bhushan at (404) 562-9182.

Sincerely,

Caron B. Falconer

Chief, EPCRA Enforcement Section

Enclosures

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

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION 4

IN THE MATTER OF:			
InChem Corporation)	Docket Number: EPCRA-04-2010-2065(b)	===	m
Respondent.)		AUS -3	P.
CONSENT AGREEMENT AND FINAL ORDER			E De Company
I.	Nature of the Action	57	

- 1. This is a civil penalty proceeding pursuant to Section 325 of the Emergency Planning and Community Right-to-Know Act (EPCRA), 42 U.S.C. § 11045, and pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), codified at 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 InChem Corporation.
- 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) and 22.18(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 325 of EPCRA, 42 U.S.C. § 11045, is vested in the Administrator of EPA. The Administrator of EPA has delegated this authority under EPCRA to the Regional Administrators by EPA Delegation 22-3-A, dated May 11, 1994. The Regional Administrator, Region 4, has redelegated this authority to the Director, Air, Pesticides and Toxics Management Division, by EPA Region 4 Delegation 22-3-A, dated November 8, 1994. 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 is InChem Corporation, a corporation doing business in the State of South Carolina.
- 5. Respondent is a "person" as defined in Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).

- 8. Section 312 of EPCRA, 42 U.S.C. § 11022, and the regulations found at 40 C.F.R. Part 370, provide that the owner or operator of a facility that is required to prepare or have available a Material Safety Data Sheet (MSDS) for hazardous chemicals under the Occupational Safety and Health Act of 1970 (OSHA) and regulations promulgated under that Act, shall submit to the Local Emergency Planning Committee (LEPC), the State Emergency Response Commission (SERC), and the fire department with jurisdiction over the facility, by March 1, 1988, and on or before March 1 annually thereafter, a completed emergency and hazardous chemical inventory form (Tier I or Tier II) as described in 40 C.F.R. Part 370, containing the information required by that part for hazardous chemicals present at the facility at any one time in the calendar year in amounts equal to or greater than 10,000 pounds and containing the information required by that part for extremely hazardous substances (EHS) present at the facility at any one time in amounts equal to or greater than the threshold planning quantity (TPQ) or 500 pounds, whichever is less.
- 9. At some time during the calendar years of 2008, 2007, and 2006, sulfuric acid was present at the facility in an amount equal to or greater than 10,000 pounds.
- 10. Sulfuric acid is an "extremely hazardous substance" as defined under Section 329(3) of EPCRA, 42 U.S.C. § 11049(3), for which Respondent is required to prepare or have available an MSDS under OSHA at its facility.
- 11. Respondent failed to submit a completed Emergency and Hazardous Chemical Inventory Form for sulfuric acid to the SERC, the LEPC, and fire department with jurisdiction over the facility for calendar years 2008, 2007, and 2006 by March 1 of the year following the calendar year for which a report was required.
- 12. Respondent violated the reporting requirements of Section 312 of EPCRA, 42 U.S.C. § 11022, at its facility for calendar years 2008, 2007, and 2006 and is therefore subject to the assessment of penalties under Section 325 of EPCRA, 42 U.S.C. § 11045.
- 13. Pursuant to Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), and 40 C.F.R. Part 19, EPA may assess a penalty of not more than \$37,500 for each violation of Section 312 that occurred after January 12, 2009. Each day a violation of Section 312 continues constitutes a separate violation. Civil penalties under Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), may be assessed by Administrative Order.

IV. Consent Agreement

- 14. 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.
- 15. Respondent waives any right to contest the allegations and its right to appeal the proposed final order accompanying the Consent Agreement.
- 16. Respondent consents to the assessment of and agrees to pay the civil penalty as set forth in this CAFO.
- 17. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with all relevant requirements of EPCRA at the facility.
- 18. Compliance with this 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 a violation of any federal or state statute, regulation or permit; to initiate an action for imminent and substantial endangerment; or to pursue criminal enforcement.
- 19. 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 EPCRA.

V. Final Order

- 20. Respondent shall pay a civil penalty of TWENTY SIX THOUSAND THREE HUNDRED DOLLARS (\$26,300), in addition to one hundred forty two dollars and eighty one cents in interest (\$142.81), by paying twelve (12) consecutive monthly payments of \$2,204.48 beginning August 1, 2010, for the violations alleged in Section III. Monthly payments are due on before the fifteenth (15th) of each month. The total amount to be paid, including interest will be \$26,442.81.
- 21. Respondent shall pay the penalty by forwarding a cashier's or certified check, payable to: "Treasurer, United States of America," to one of the following addresses:

By Mail:By Overnight:U.S. Environmental Protection AgencyU.S. BankFines and PenaltiesAttn: Natalie Pearson (314) 418-4087Cincinnati Finance Center1005 Convention PlazaP.O. Box 979077Mail Station SL-MO-C2GLSt. Louis, Missouri 63197-9000St. Louis, Missouri 63101

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

AGREED AND CONSENTED TO:

InChem Corporation
By: Date: 7/19/10
Name: Kran Vame (Typed or Printed)
Title: VP Eng. nearn, InChan Carp (Typed or Printed)
By: Carol L. Kemker Acting Director Air, Pesticides & Toxics Management Division Region 4
APPROVED AND SO ORDERED this 29 day of July, 2010.

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 Consent Agreement and Final Order, in the Matter of InChem Corporation

EPCRA-04-2010-2065(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 & Toxics Management Division
61 Forsyth Street
Atlanta, Georgia 30303

Robert Caplan (Via EPA's internal mail)
U.S. EPA, Region 4
Office of Environmental Accountability
61 Forsyth Street
Atlanta, Georgia 30303

Mr. Brian Hamel VP Engineering InChem Corp. 800 Cel-River Road Rock Hill, SC 29730 (Via Certified Mail - Return Receipt Requested)

Date: (11/11/13, 2010

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

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