

SPARTECH CORP  
Form 425  
October 25, 2012

**UNITED STATES**  
**SECURITIES AND EXCHANGE COMMISSION**

WASHINGTON, D.C. 20549

**FORM 8-K**

**CURRENT REPORT**

Pursuant to Section 13 or 15(d) of the  
Securities Exchange Act of 1934

Date of report (Date of earliest event reported): October 23, 2012

**PolyOne Corporation**

(Exact Name of Registrant as Specified in Its Charter)

**Ohio**  
(State or Other Jurisdiction  
of Incorporation)

**1-16091**  
(Commission  
File Number)

**34-1730488**  
(IRS Employer  
Identification No.)

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**PolyOne Center**

**33587 Walker Road**

**Avon Lake, Ohio 44012**

**(Address of Principal Executive Offices) (Zip Code)**

**Registrant's telephone number, including area code: (440) 930-1000**

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

**Item 1.01 Entry into a Material Definitive Agreement.**

On October 23, 2012, PolyOne Corporation ( PolyOne ), 2012 RedHawk, Inc., a wholly owned subsidiary of PolyOne ( Merger Sub ), 2012 RedHawk, LLC, a wholly owned subsidiary of PolyOne ( Merger LLC ), and Spartech Corporation ( Spartech ) entered into an Agreement and Plan of Merger (the Merger Agreement ) pursuant to which Spartech will be merged with and into Merger Sub (the Merger ), with Spartech to be the surviving corporation in the merger (the Surviving Corporation ) and a wholly owned subsidiary of PolyOne, which is expected to be immediately followed by a merger of the Surviving Corporation with and into Merger LLC (the Subsequent Merger ), with Merger LLC to be the surviving entity in the Subsequent Merger.

Pursuant to the terms of the Merger Agreement, at the effective time of the Merger, each issued and outstanding share of Spartech common stock will be canceled and converted into the right to receive consideration equal to \$2.67 in cash and 0.3167 PolyOne common shares. In the aggregate, PolyOne will issue approximately 9.9 million of its common shares and pay approximately \$84,000,000 in cash to Spartech shareholders. PolyOne intends to finance the cash portion of the purchase price as well as the repayment of certain debt of Spartech through a combination of cash on hand and new long-term debt.

The closing of the Merger is expected to occur during the first quarter of 2013, subject to the satisfaction of customary closing conditions, including, among other things: (1) the adoption and approval of the Merger Agreement and the Merger by Spartech's stockholders; (2) receipt of required regulatory approvals; (3) the absence of certain legal impediments preventing the consummation of the Merger; (4) the effectiveness of the registration on Form S-4 to be filed by PolyOne relating to the PolyOne common shares to be issued in the Merger; (5) the expiration or termination of the applicable waiting period under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended; (6) the approval by the New York Stock Exchange of the listing of PolyOne common shares issuable to Spartech stockholders under the Merger Agreement; (7) the delivery of opinions from counsel to PolyOne and counsel to Spartech to the effect that the Merger will be treated as a reorganization within the meaning of Section 368(a) of the Internal Revenue Code of 1986, as amended.

Each of PolyOne and Spartech has made representations, warranties and covenants in the Merger Agreement. Spartech's covenants and agreements include, among other things: (1) subject to certain conditions, to conduct its business in the ordinary course of business during the period between the execution of the Merger Agreement and the completion of the Merger; and (2) not to solicit or initiate discussions with third parties regarding alternative transactions and to respond to proposals regarding such alternative transactions only in accordance with the terms of the Merger Agreement. PolyOne's covenants and agreements include, among other things: (1) to conduct its business in the ordinary course of business during the period between the execution of the Merger Agreement and the completion of the Merger, subject to certain conditions; and (2) to prepare and file with the SEC a registration statement on Form S-4 to register the securities issuable to Spartech stockholders under the Merger Agreement.

The foregoing summary has been included to provide investors and security holders with information regarding its terms and is qualified in its entirety by the terms and conditions of the Merger Agreement, a copy of which is attached hereto as Exhibit 2.1 and is incorporated herein by reference. Except for its status as a contractual document that establishes and governs the legal relations among the parties with respect to the transactions described therein, the Merger Agreement is not intended to be a source of factual, business, or operational information about the parties. The representations, warranties, and covenants contained in the Merger Agreement were made only for purposes of that agreement and as of specific dates, were solely for the benefit of the parties to that agreement, and may be subject to limitations agreed among those parties, including being qualified by confidential disclosures among those parties. Instead of establishing matters as facts, the representations and warranties may have been made to allocate risks contractually among the parties, including where the parties do not have complete knowledge of all facts. Furthermore, those representations and warranties may be subject to standards of materiality applicable to the contracting parties that differ from those applicable to investors. Accordingly, investors and security holders should not rely on representations, warranties, covenants, or any descriptions thereof as characterizations of the actual state of facts or condition of the parties.

**Cautionary Note on Forward-Looking Statements**

This document contains forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995. In particular, statements in this document regarding the proposed acquisition of Spartech are forward-looking statements. Forward-looking statements give current expectations or forecasts of future events and are not guarantees of future performance. They are based on management's expectations that involve a number of business risks and uncertainties, any of which could cause actual results to differ materially from those expressed in or implied by the forward-looking statements. They use words such as will, anticipate, estimate, expect, project, intend, plan, believe, words and terms of similar meaning in connection with any discussion of future operating or financial condition, performance and/or sales. Factors that could cause actual results to differ materially from those implied by these forward-looking statements include, but are not limited to: the time required to consummate the proposed acquisition; the satisfaction or waiver of conditions in the merger agreement; any material adverse changes in the business of Spartech; the ability to obtain required regulatory, shareholder or other third-party approvals and consents and otherwise consummate the proposed acquisition; our ability to achieve the strategic and other objectives relating to the proposed acquisition, including any expected synergies; our ability to successfully integrate Spartech and achieve the expected results of the acquisition, including, without limitation, the acquisition being accretive; disruptions, uncertainty or volatility in the credit markets that could adversely impact the availability of credit already arranged and the availability and cost of credit in the future; the financial condition of our customers, including the ability of customers (especially those that may be highly leveraged and those with inadequate liquidity) to maintain their credit availability; the speed and extent of an economic recovery, including the recovery of the housing market; our ability to achieve new business gains; the effect on foreign operations of currency fluctuations, tariffs, and other political, economic and regulatory risks; changes in polymer consumption growth rates where we conduct business; changes in global industry capacity or in the rate at which anticipated changes in industry capacity come online; fluctuations in raw material prices, quality and supply and in energy prices and supply; production outages or material costs associated with scheduled or unscheduled maintenance programs; unanticipated developments that could occur with respect to contingencies such as litigation and environmental matters; an inability to achieve or delays in achieving or achievement of less than the anticipated financial benefit from initiatives related to working capital reductions, cost reductions, and employee productivity goals; an inability to raise or sustain prices for products or services; an inability to maintain appropriate relations with unions and employees; the inability to achieve expected results from our acquisition activities; our ability to continue to pay cash dividends; the amount and timing of repurchases of our common shares, if any; and other factors affecting our business beyond our control, including, without limitation, changes in the general economy, changes in interest rates and changes in the rate of inflation. The above list of factors is not exhaustive.

We undertake no obligation to publicly update forward-looking statements, whether as a result of new information, future events or otherwise. You are advised to consult any further disclosures we make on related subjects in our reports on Form 10-Q, 8-K and 10-K that we provide to the Securities and Exchange Commission.

**Additional Information**

In connection with the proposed transaction, a registration statement on Form S-4 will be filed with the SEC. SPARTECH CORPORATION STOCKHOLDERS ARE ENCOURAGED TO READ THE REGISTRATION STATEMENT AND ANY OTHER RELEVANT DOCUMENTS FILED WITH THE SEC, INCLUDING THE PROXY STATEMENT/PROSPECTUS THAT WILL BE PART OF THE REGISTRATION STATEMENT, WHEN THEY BECOME AVAILABLE, BECAUSE THEY WILL CONTAIN IMPORTANT INFORMATION ABOUT THE PROPOSED MERGER. The final proxy statement/prospectus will be mailed to stockholders of Spartech Corporation. Investors and security holders will be able to obtain the documents free of charge at the SEC's website, *www.sec.gov*, from PolyOne at its website, *www.polyone.com*, or 33587 Walker Road, Avon Lake, Ohio 44012, Attention: Corporate Secretary, or from Spartech Corporation at its website, *www.spartech.com*, or 120 S. Central Avenue, Suite 1700, Clayton, MO 63105, Attention: Corporate Secretary.

**Participants in Solicitation**

PolyOne and Spartech Corporation and their respective directors and executive officers may be deemed to be participants in the solicitation of proxies in respect of the proposed merger. Information concerning PolyOne's participants is set forth in the proxy statement, dated March 23, 2012, for PolyOne's 2012 Annual Meeting of Stockholders as filed with the SEC on Schedule 14A and PolyOne's current reports on Form 8-K, as filed with the SEC on May 11, 2012 and September 25, 2012. Information concerning Spartech Corporation's participants is set forth in the proxy statement, dated January 24, 2012, for Spartech Corporation's 2012 Annual Meeting of Stockholders as filed with the SEC on Schedule 14A and Spartech Corporation's current report on Form 8-K, as filed with the SEC on March 16, 2012. Additional information regarding the interests of participants of PolyOne and Spartech Corporation in the solicitation of proxies in respect of the proposed merger will be included in the registration statement and proxy statement/prospectus and other relevant materials to be filed with the SEC when they become available. This communication does not constitute an offer to sell or the solicitation of an offer to buy any securities, nor shall there be any sale of securities in any jurisdiction in which such offer, solicitation, or sale would be unlawful prior to registration or qualification under the securities laws of any such jurisdiction.

**Item 9.01 Financial Statements and Exhibits.**

(d) Exhibits.

Exhibit Number	Description
2.1	Agreement and Plan of Merger, dated October 23, 2012, by and among PolyOne Corporation, 2012 RedHawk, Inc., 2012 RedHawk, LLC and Spartech Corporation.*

\* Certain exhibits and schedules have been omitted pursuant to Item 601(b)(2) of Regulation S-K and will be provided to the Securities and Exchange Commission upon request.

**SIGNATURES**

Pursuant to the requirements of the Securities Exchange Act of 1934, as amended, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

**PolyOne Corporation**

By: /s/ Lisa K. Kunkle  
Lisa K. Kunkle  
Vice President, General Counsel and Secretary

Date: October 25, 2012

**EXHIBIT INDEX**

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