



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

MAY 08 2018

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Ms. Angela Jean Levin  
Attorney  
Troutman Sanders, LLP  
600 Peachtree Street NE, Suite 5200  
Atlanta, Georgia 30308

Re: StarChem, LLC  
Consent Agreement and Final Order  
Docket No. TSCA-04-2017-2518 (b)

Dear Ms. Levin:

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. Please refer to Section V of the CAFO for penalty information and payment requirements. To ensure proper processing, the Respondent's name and Docket Number for this case, identified above and in the CAFO, should be noted on any cashier's or certified check submitted in payment of the penalty.

Should you or your client have any questions concerning the compliance status in the future, please contact Mr. Verne George of the U.S. Environmental Protection Agency Region 4 staff at (404) 562-8988. Thank you for your cooperation in reaching resolution of this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Anthony G. Toney".

Anthony G. Toney  
Chief  
Chemical Safety and Enforcement Branch

Enclosure

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
ATLANTA, GEORGIA

HEARING CLERK

2018 MAY -8 PM 1:48

ROBERTA GREGORY  
OFFICE OF GENERAL  
COUNSEL

In the Matter of: )

StarChem, LLC )

Respondent. )

) Docket No. TSCA-04-2017-2518(b)  
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**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, U.S. Environmental Protection Agency, Region 4. Respondent is StarChem, LLC.
2. The authority to take action under Section 16(a) of TSCA, 15 U.S.C. § 2615(a), is vested in the Administrator of the EPA. The Administrator of the EPA has delegated this authority under TSCA to the EPA Region 4 Regional Administrator by EPA Delegation 12-2-A, dated May 11, 1994. The Region 4 Regional Administrator has re delegated this authority to the Director of the Air, Pesticides and Toxics Management Division by EPA Region 4 Delegation 12-2-A, dated January 30, 2015. 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 and has the authority to sign Consent Agreements memorializing settlements between the EPA and Respondents.

3. 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**

4. Pursuant to Section 15 of TSCA, 15 U.S.C. § 2614, it is unlawful for any person to: (1) 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 Section 5 or 6 of TSCA, 15 U.S.C. § 2604 or § 2605 and; (2) fail to maintain records, submit reports or information, or permit access to or allow copying of records including but not limited to records and reports required by Section 8 of TSCA, 15 U.S.C. § 2607.
5. Any person who violates a provision of Section 15 of TSCA shall be liable for a civil penalty for each such violation in accordance with Section 16(a) of TSCA and 40 C.F.R. Part 19. Each day a violation continues may constitute a separate violation.
6. All Confidential Business Information (CBI) in this CAFO has been redacted. To determine the identity of the chemical substances referenced in this CAFO or the CBI that was deleted (CBI deleted), Complainant and/or Respondent should refer to the show

cause letter dated October 5, 2016, sent to the Respondent identifying the potential violations of TSCA and notifying the Respondent of the opportunity to show cause why the EPA should not proceed with an enforcement action.

### **III. Specific Allegations**

7. Respondent operates a chemical manufacturing and importing business located at 10150 Greenville Highway, Wellford, South Carolina.
8. Respondent is a manufacturer and an importer as those terms are defined in 40 C.F.R. §§ 710.3 and 711.3.
9. On May 24, 2016, an authorized agent of EPA Region 4 conducted an audit at Respondent's office pursuant to Section 11 (a) of TSCA, 15 U.S.C. § 2610(a).

#### **Failure to Submit Chemical Data Reporting in 2012**

10. Pursuant to 40 C.F.R. § 711.8(a), any person who manufactured (including imported) for commercial purposes 25,000 pounds (11,340 kilogram (kg)) or more of a chemical substance described in 40 C.F.R. § 711.5 at any single site owned or controlled by that person during the principal reporting year (i.e., calendar year 2011) is subject to the chemical data reporting (CDR) requirements under Section 8(a) of TSCA, 15 U.S.C. § 2607(a) and 40 C.F.R. Part 711.
11. A review of Respondent's 2011 manufacture records revealed that Respondent had manufactured a reportable quantity (> 25,000 pounds) of the following six (6) chemicals, including Chemicals A, B, C, E, F, and G for commercial purposes at its Wellford site.
12. All six chemical substances referenced in paragraph 11 were listed on the TSCA Master Inventory File at the beginning of the CDR period (February 1, 2012, through August 13, 2012) referenced at 40 C.F.R. § 711.20.

13. Pursuant to 40 C.F.R. § 711.15, Respondent was required to submit to the EPA a CDR Report for the reportable chemical substances that were manufactured (including imported) for commercial purposes in quantities greater than 25,000 pounds in calendar year 2011, by no later than the end of the reporting period, August 13, 2012. The chemical substances referenced in paragraph 11 was subject to the 2012 CDR.
14. Pursuant to 40 C.F.R. §§ 711.15 and 711.35, any person who reports CDR information to the EPA must do so using the e-CDRweb reporting tool provided by the EPA at <http://www.epa.gov/cdr>. The Respondent did not report CDR information for 2011 during the submission period (February 1, 2012 through August 13, 2012).
15. By not submitting the 2012 CDR Report to the EPA during the submission period for the chemical substances referenced in paragraph 11, Respondent failed to comply with 40 C.F.R. § 711.15.
16. As stated in 40 C.F.R. § 711.1(c), Section 15(3) of TSCA makes it unlawful for any person to fail or refuse to submit information required under 40 C.F.R. Part 711.
17. Section 16 of TSCA provides that any person who violates a provision of Section 15 of TSCA is liable to the United States for a civil penalty and may be criminally prosecuted.

#### **PMN Violation**

18. Based on the production records for [CBI deleted] hereinafter referred to as Chemical O, on December 16, 2015, Respondent manufactured [CBI deleted] pounds of Chemical O for use as [CBI deleted] at its Wellford site. Chemical O was manufactured for commercial purposes.
19. According to the EPA's certified statement [CBI deleted], as of September 12, 2016, Chemical O was not listed on the TSCA Inventory.

20. The certified statement is similar to the notice referenced at 40 C.F.R. § 720.25(b)5 (Determining whether a chemical substance is on the Inventory).
21. Pursuant to 40 C.F.R. § 720.25(a), a chemical substance that is not listed on the TSCA Inventory is classified as a new chemical substance.
22. Under 40 C.F.R. § 723.250(c), a chemical substance is eligible for an exemption under 40 C.F.R. § 723.250 if that substance: (1) meets the definition of “polymer” referenced in 40 C.F.R. 723.250(b); (2) meets the criteria in 40 C.F.R. §723.250(e); and (3) is not a cationic polymer as described in 40 C.F.R. § 723.250(b).
23. Respondent has asserted and agrees that Chemical O is not an exempt polymer as referenced at 40 C.F.R. § 723.250(c).
24. Pursuant to 40 C.F.R. § 720.22(a), any person who intends to manufacture (including import) a new chemical substance in the United States for commercial purposes must submit a notice unless the substance is excluded under 40 C.F.R § 720.30. A premanufacture notice (PMN) was not submitted to the EPA before Respondent manufactured Chemical O for commercial purposes, as required by 40 C.F.R. § 720.22(a)(1).
25. Pursuant to 40 C.F.R. § 720.120(a) and (f), failure to comply with any provision of this part (720.120) is a violation of Section 15 of TSCA.
26. Section 16 of TSCA provides that any person who violates a provision of Section 15 of TSCA is liable to the United States for a civil penalty and may be criminally prosecuted

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

27. 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.

28. 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.
29. Respondent consents to the assessment of the penalty proposed by the EPA and agrees to pay the civil penalty as set forth in this CAFO.
30. 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.
31. In accordance with 40 C.F.R. § 22.18(c), compliance with this CAFO only resolves Respondent's liability for federal civil penalties for the allegations in Section III of this CAFO and does not affect the right of the EPA or U.S. to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law. This CAFO does not waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable provisions of TSCA or other applicable laws and regulations.
32. 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**

33. Respondent is assessed a civil penalty of **ONE HUNDRED FORTY-THREE THOUSAND, THREE HUNDREND - TEN (\$143,310)** which shall be paid within thirty (30) days of the effective date.
34. Respondent shall remit the penalty payment by either a cashier's or certified check made payable to the "Treasurer, United States of America." **The Respondent shall note on the face of the check the Respondent's name and the Docket Number associated with this CAFO.** The penalty payment shall be sent by one of the methods below.

Address for standard delivery:

U.S. Environmental Protection Agency  
P.O. Box 979077  
St. Louis, Missouri 63197-9000

Address for signed receipt confirmation (FedEx, DHL, UPS, USPS certified, registered, etc.):

U.S. Environmental Protection Agency  
Government Lockbox 979077  
1005 Convention Plaza  
SL-MO-C2-GL  
St. Louis, Missouri 63101  
Delivery Contact Phone Number: (314) 425-1819

Electronic Payment: Any electronic payment method as indicated in the EPA's electronic payment options web site found at:

<https://www.epa.gov/financial/makepayment#electronic>

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

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

Verne George  
Chemical Management and Emergency Planning Section  
U.S. EPA Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960

36. 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.
37. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, the 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. In accordance with 40 C.F.R. § 13.11(a), interest on any civil penalty assessed in a CAFO begins to accrue on the date that a copy of the CAFO is mailed or hand-delivered to the Respondent. However, the EPA will not seek to recover interest on any amount of such civil penalty that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a). 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.

38. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
39. This CAFO shall be binding upon the Respondent and its successors and assigns.
40. Each undersigned representative of the parties to this CAFO certifies that he or she is fully authorized by the party represented to enter into this CAFO and hereby legally binds that party to this CAFO.

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

**VI. Effective Date**

41. 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: StarChem, LLC**

**Docket No.: TSCA-04-2017-2518(b)**

By: Peter Chetcuti

Date: April 11<sup>th</sup>, 2018

Name: PETER CHETCUTI

Title: PRESIDENT

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

By: Beverly H. Banister

Date: 5-2-2018

Beverly H. Banister  
Director  
Air, Pesticides and Toxics Management Division

**APPROVED AND SO ORDERED** this 9<sup>th</sup> day of May, 2018.

By: Tanya Floyd

Tanya Floyd  
Regional Judicial Officer

**CERTIFICATE OF SERVICE**

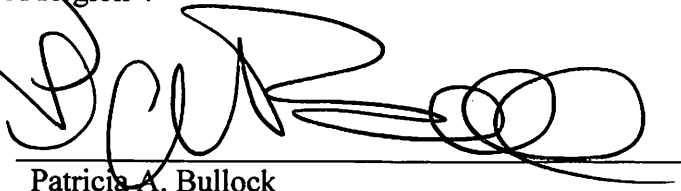
I hereby certify that on the date set out below, I filed the original and one copy of the foregoing Consent Agreement and Final Order and served a true and correct copy of the foregoing Consent Agreement and Final Order, In the Matter of StarChem, LLC. Docket Number: TSCA-04-2017-2518(b), to the addressees listed below.

Ms. Angela Jean Levin (via Certified Mail, Return Receipt Requested)  
Attorney at law  
Troutman Sanders LLP  
600 Peachtree Street NE, Suite 5200  
Atlanta, Georgia 30308

Verne George (via EPA's internal mail)  
Chemical Management and Emergency  
Planning Section  
U.S. EPA Region 4

Lucia Mendez (via EPA's internal mail)  
Attorney  
Office of Regional Counsel  
U.S. EPA Region 4

By:



Patricia A. Bullock  
Regional Hearing Clerk  
U.S. EPA Region 4  
61 Forsyth St., S.W.  
Atlanta, GA 30303  
(404) 562-9511

Date:

5-8-18