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UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 HAWTHORNE STREET
SAN FRANCISCO, CALIFORNIA 94105

_____)	Docket No. TSCA-09-2017- <u>0005</u>
In the Matter of:)	
)	
Samirian Chemicals, Inc.)	CONSENT AGREEMENT
)	AND FINAL ORDER PURSUANT TO
)	40 C.F.R. §§ 22.13 and 22.18
Respondent)	
_____)	

I. CONSENT AGREEMENT

The United States Environmental Protection Agency, Region IX (“EPA Region IX”) and Samirian Chemicals, Inc. (“Respondent”) agree to settle this case initiated under the Toxic Substances Control Act (“TSCA” or the “Act”), 15 U.S.C. §§ 2601 *et seq.*, and consent to the entry of this Consent Agreement and Final Order (“CAFO”), which simultaneously commences and concludes this matter pursuant to 40 C.F.R. §§ 22.13 and 22.18.

A. AUTHORITY AND PARTIES

1. This is a civil administrative action brought against Respondent pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits at 40 C.F.R. Part 22 for violations of Section 8(a) of TSCA, 15 U.S.C. § 2607(a), and its implementing regulations promulgated at 40 C.F.R. Part 711.
2. Complainant is the Chief of the Waste and Chemical Section of the Air, Waste and Toxics Branch, Enforcement Division, EPA Region IX. The Administrator of EPA delegated to the Regional Administrator of EPA Region IX the authority to bring this action under TSCA. In turn, the Regional Administrator of EPA Region IX further delegated the authority to bring this action under TSCA to the Chief of the Waste and Chemical Section of the Air, Waste and Toxics Branch, Enforcement Division.
3. Respondent is a California corporation whose principal offices are located at 1999 South Bascom Avenue in Campbell, California.

B. APPLICABLE STATUTORY AND REGULATORY SECTIONS

4. Section 8(a)(1)(A) of TSCA, 15 U.S.C. § 2607(a)(1)(A), provides that the EPA Administrator shall promulgate rules under which each person (other than a small manufacturer or processor) who manufactures or processes or proposes to manufacture or process a chemical substance shall maintain such records, and shall submit to the Administrator such reports, as the Administrator may reasonably require.
5. 40 C.F.R. Part 710 establishes regulations governing reporting and recordkeeping by certain persons who manufacture, import, or process chemical substances for commercial purposes under TSCA Section 8(a) and applies to the activities associated with the compilation of the TSCA Chemical Substance Inventory (“TSCA Inventory”) and the update of information on a subset of the chemical substances included on the TSCA Inventory.

6. 40 C.F.R. Part 711 specifies reporting and recordkeeping procedures under TSCA Section 8(a) for certain manufacturers (including importers) of chemical substances and applies to the activities associated with the periodic update of information on a subset of the chemical substances included on the TSCA Inventory.
7. 40 C.F.R. § 711.8(a) provides that, for the 2012 submissions period, any person who manufactured (including imported) for commercial purposes 25,000 pounds (11,340 kilograms [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 reporting.
8. 40 C.F.R. § 711.5 provides that any chemical substance that is in the Master Inventory File at the beginning of a submission period must be reported unless exempt by 40 C.F.R. § 711.6.
9. “Master Inventory File” means EPA’s comprehensive list of chemical substances which constitutes the TSCA Inventory compiled under TSCA Section 8(b). 40 C.F.R. § 711.3.
10. “Person” means any natural or judicial person including any individual, corporation, partnership, or association, any State or political subdivision thereof, or any municipality, any interstate body and any department, agency, or instrumentality of the Federal Government. 40 C.F.R. § 710.3.
11. “Manufacture or import ‘for commercial purpose’” means to manufacture, produce, or import with the purpose of obtaining an immediate or eventual commercial advantage, and includes, for example, the manufacture or import of any amount of a chemical substance or mixture for commercial distribution, including test marketing, or for use by the manufacturer, including use for product research and development, or as an intermediate. 40 C.F.R. § 710.3.
12. The “site” for an importer who imports a chemical substance is the U.S. site of the operating unit within the person’s organization that is directly responsible for importing the chemical substance. 40 C.F.R. § 711.3.

13. “Principal reporting year” means the latest complete calendar year preceding the submission period. 40 C.F.R. § 711.3.
14. 40 C.F.R. § 711.20 provides that all information reported to EPA in response to the requirements of this part must be submitted during an applicable submission period. The 2012 CDR submission period is from February 1, 2012 to August 13, 2012.
15. 40 C.F.R. § 711.15 provides that, for the 2012 submission period, any person who must report under this part, as described in 40 C.F.R. § 711.8, must submit the information described in this section for each chemical substance described in 40 C.F.R. § 711.5 that the person manufactured (including imported) for commercial purposes in an amount of 25,000 pounds (11,340 kgs.) or more at any one site during the principal reporting year (i.e., calendar year 2011).
16. 40 C.F.R. § 711.15(a) provides that any person who reports information to EPA must do so using the e-CDRweb reporting tool provided by EPA at the address set forth in 40 C.F.R. § 711.35 and must submit a separate Form U for each site for which the person is required to report.
17. TSCA Section 15(3)(B), 15 U.S.C. § 2614(3)(B), states that it is unlawful for any person to fail or refuse to submit reports, notices or other information required by TSCA or a rule thereunder.
18. Section 16(a) of TSCA, 15 U.S.C. § 2615(a), and the Civil Monetary Penalty Inflation Adjustment Rule at 40 C.F.R. Part 19, which implements the Federal Civil Penalties Inflation Adjustment Act of 1990, Pub. L. 101-410, authorize civil penalties not to exceed \$37,500 per day for each violation of Section 15 of TSCA that occurred after January 12, 2009.

C. ALLEGED VIOLATIONS

19. Respondent is a “person” as that term is defined at 40 C.F.R. § 710.3.
20. During calendar year 2011, Respondent “imported for commercial purposes,” as those terms are defined at 40 C.F.R. § 710.3, more than 25,000 pounds of Guanadine (CAS No.

461-58-5), Sodium hydroxide (CAS No. 1310-73-2), Sulfamic acid (CAS No. 5329-14-6), and Disulfurous acid, sodium salt (1:2) (CAS No. 7681-57-4) to its "site" located at 1999 South Bascom Avenue, Campbell, California, as that term is defined at 40 C.F.R. § 711.3.

21. Guanadine (CAS No. 461-58-5), Sodium hydroxide (CAS No. 1310-73-2), Sulfamic acid (CAS No. 5329-14-6), and Disulfurous acid, sodium salt (1:2) (CAS No. 7681-57-4) are each a chemical substance that was in the Master Inventory File at the beginning of the 2012 submission period, as described by 40 C.F.R. § 711.5.
22. Accordingly, pursuant to 40 C.F.R. 711.8, 711.15 and 711.20, between February 1, 2012 and August 13, 2012, Respondent was required to submit a Form U to EPA reporting the chemical substances, Guanadine (CAS No. 461-58-5), Sodium hydroxide (CAS No. 1310-73-2), Sulfamic acid (CAS No. 5329-14-6), and Disulfurous acid, sodium salt (1:2) (CAS No. 7681-57-4), imported for commercial purposes during calendar year 2011.
23. Between February 1, 2012 and August 13, 2012, Respondent failed to submit a Form U to EPA reporting the chemical substances, Guanadine (CAS No. 461-58-5), Sodium hydroxide (CAS No. 1310-73-2), Sulfamic acid (CAS No. 5329-14-6), and Disulfurous acid, sodium salt (1:2) (CAS No. 7681-57-4), imported for commercial purposes during calendar year 2012.
24. Respondent's failures constitute four (4) violations of 40 C.F.R. §§ 711.8, 711.15, and 711.20 and TSCA Section 15(3)(B), 15 U.S.C. § 2614(3)(B).

D. RESPONDENT'S ADMISSIONS

25. In accordance with 40 C.F.R. § 22.18(b)(2) and for the purpose of this proceeding, Respondent (i) admits that EPA has jurisdiction over the subject matter of this CAFO and over Respondent; (ii) neither admits nor denies the specific factual allegations contained in the CAFO; (iii) consents to any and all conditions specified in this CAFO and to the assessment of the civil administrative penalty under Section I.E of this CAFO; (iv) waives

any right to contest the allegations contained in the CAFO; and (v) waives the right to appeal the proposed final order contained in this CAFO.

E. CIVIL ADMINISTRATIVE PENALTY

26. In settlement of the civil claims alleged in Section I.C of the CAFO, Respondent hereby consents to the assessment of a civil penalty in the amount of TEN THOUSAND DOLLARS (\$10,000), plus interest, according to the terms of this CAFO and Attachment 1, attached hereto, which specifies an installment payment plan and interest schedule. Payment shall be made by cashier's or certified check payable to the "Treasurer, United States of America," or paid by one of the other methods listed below and sent as follows:

Regular Mail:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

Wire Transfers:

Wire transfers must be sent directly to the Federal Reserve Bank in New York City with the following information:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT Address = FRNYUS33
33 Liberty Street
New York, NY 10045
Field Tag 4200 of the Fedwire message should read "D 68010727 Environmental Protection Agency"

Overnight Mail:

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
ATTN Box 979077
St. Louis, MO 63101

ACH (also known as REX or remittance express):

US Treasury REX/Cashlink ACH Receiver
ABA: 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 – checking
Physical location of US Treasury Facility:
5700 Rivertech Court
Riverdale, MD 20737
Remittance Express (REX): 1-866-234-5681

On Line Payment:

This payment option can be accessed from the information below:

www.pay.gov
Enter “sfo l.1” in the search field
Open form and complete required fields

If clarification regarding a particular method of payment remittance is needed, contact the EPA Cincinnati Finance Center at 513-487-2091.

The payment shall be accompanied by a transmittal letter identifying Respondent, the case name, and the case docket number. Concurrent with delivery of the payment of the penalty, Respondent shall send a copy of the check or notification that the payment has been made by one of the other methods listed above, including proof of the date payment was made, and transmittal letter to:

Regional Hearing Clerk
Office of Regional Counsel (ORC-1)
U.S. Environmental Protection Agency, Region IX
75 Hawthorne Street
San Francisco, CA 94105

Aisha Kennedy
Enforcement Division (ENF-2-2)
U.S. Environmental Protection Agency, Region IX
75 Hawthorne Street
San Francisco, CA 94105

27. Payment of the above civil administrative penalty shall not be used by Respondent or any other person as a tax deduction from Respondent’s federal, state, or local taxes.

28. If Respondent fails to pay the civil administrative penalty specified in Paragraph 26 of this CAFO by the deadlines specified in Attachment 1 of this CAFO, then Respondent shall pay to EPA a stipulated penalty in the amount of TWO THOUSAND AND FIVE HUNDRED DOLLARS (\$2,500) plus the remaining balance of the penalty sum specified in Paragraph 26 upon written demand by EPA.
29. In addition, failure to pay the civil administrative penalty may lead to any or all of the following actions:
- a. The debt being referred to a credit reporting agency, a collection agency, or to the Department of Justice for filing of a collection action in the appropriate United States District Court. 40 C.F.R. §§ 13.13, 13.14, and 13.33. In any such collection action, the validity, amount, and appropriateness of the assessed penalty and of this CAFO shall not be subject to review.
 - b. The debt being collected by administrative offset (i.e., the withholding of money payable by the United States to, or held by the United States for, a person to satisfy the debt the person owes the Government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds. 40 C.F.R. Part 13, Subparts C and H.
 - c. EPA may (i) suspend or revoke Respondent's licenses or other privileges; or (ii) suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds. 40 C.F.R. § 13.17.
 - d. In accordance with the Debt Collection Act of 1982 and 40 C.F.R. Part 13, interest, penalties charges, and administrative costs will be assessed against the outstanding amount that Respondent owes to EPA for Respondent's failure to pay the civil administrative penalty within the deadlines specified in Attachment 1 of this CAFO. Interest will be assessed at an annual rate that is equal to the rate of current value of funds to the United States Treasury (i.e., the Treasury tax and loan account rate) as prescribed and published by the Secretary of the Treasury in

the Federal Register and the Treasury Fiscal Requirements Manual Bulletins. 40 C.F.R. § 13.11(a)(1). Penalty charges will be assessed monthly at a rate of 6% per annum. 40 C.F.R. § 13.11(c). Administrative costs for handling and collecting Respondent's overdue debt will be based on either actual or average cost incurred, and will include both direct and indirect costs. 40 C.F.R. § 13.11(b). In addition, if this matter is referred to another department or agency (e.g., the Department of Justice, the Internal Revenue Service), that department or agency may assess its own administrative costs, in addition to EPA's administrative costs, for handling and collecting Respondent's overdue debt.

F. RESPONDENT'S CERTIFICATION

30. In executing this CAFO, Respondent certifies that it is now in compliance with the federal regulations promulgated to implement TSCA Section 8(a) at 40 C.F.R. Part 711.

G. RETENTION OF RIGHTS

31. In accordance with 40 C.F.R. § 22.18(c), this CAFO only resolves Respondent's liability for federal civil penalties for the violations and facts specifically alleged in the CAFO. Nothing in this CAFO is intended to or shall be construed to resolve (i) any civil liability for violations of any provision of any federal, state, or local law, statute, regulation, rule, ordinance, or permit not specifically alleged in Section I.C of the CAFO; or (ii) any criminal liability. EPA specifically reserves any and all authorities, rights, and remedies available to it (including, but not limited to, injunctive or other equitable relief or criminal sanctions) to address any violation of this CAFO or any violation not specifically alleged in the CAFO.
32. This CAFO does not exempt, relieve, modify, or affect in any way Respondent's duty to comply with all applicable federal, state, and local laws, regulations, rules, ordinances, and permits.

H. ATTORNEYS' FEES AND COSTS

33. Each party shall bear its own attorneys' fees, costs, and disbursements incurred in this proceeding.

I. EFFECTIVE DATE

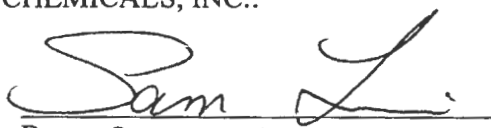
34. In accordance with 40 C.F.R. §§ 22.18(b)(3) and 22.31(b), this CAFO shall be effective on the date that the final order contained in this CAFO, having been approved and issued by either the Regional Judicial Officer or Regional Administrator, is filed.

J. BINDING EFFECT

35. The undersigned representative of Complainant and the undersigned representative of Respondent each certifies that he or she is fully authorized to enter into the terms and conditions of this CAFO and to bind the party he or she represents to this CAFO.
36. This CAFO constitutes the entire agreement between the parties resolving this matter arising under TSCA.
37. The provisions of this CAFO shall apply to and be binding upon Respondent and its officers, directors, employees, agents, trustees, servants, authorized representatives, successors, and assigns.


FOR RESPONDENT, SAMIRIAN CHEMICALS, INC.:

5/10/17
DATE


By: Sam Liao
Title:
Address: 1999 S. Bascom Ave
Suite 515
Campbell, CA 95008

FOR COMPLAINANT, EPA REGION IX:

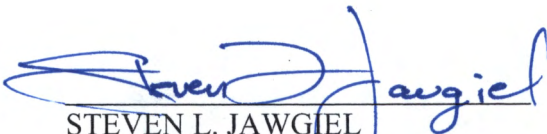
5-16-17
DATE


Douglas K. McDaniel
Chief, Waste and Chemical Section
Enforcement Division
United States Environmental
Protection Agency, Region IX

II. FINAL ORDER

EPA Region IX and Respondent having entered into the foregoing Consent Agreement,
IT IS HEREBY ORDERED that this CAFO (Docket No. TSCA-09-2017-0005) be entered,
and that Respondent shall pay a civil administrative penalty in the amount of TEN THOUSAND
DOLLARS (\$10,000), plus interest, and otherwise comply with the terms and conditions set forth
in the Consent Agreement. This CAFO shall become effective upon filing.

05/31/17
DATE


STEVEN L. JAWGIEL
Regional Judicial Officer
United States Environmental Protection
Agency, Region IX

ATTACHMENT 1

**INSTALLMENT PAYMENT AND INTEREST SCHEDULE
DOCKET NO. TSCA-09-2017-000_**

Principal	Days	Interest Payment	Principal	Installment Payment
\$10,000	30	\$0	\$2,500	\$2,500
\$7,500	150	\$31.25	\$2,500	\$2,531.25
\$5,000	90	\$12.50	\$2,500	\$2,512.50
\$2,500	90	\$6.25	\$2,500	\$2,506.25
Totals		\$50.00	\$10,000	\$10,050.00

1st Installment: \$2,500 (Due within 30 days of the effective date of the CAFO)

2nd Installment: \$2,531.25 (Due within 150 days after the deadline for the first installment payment)

3rd Installment: \$2,512.50 (Due within 90 days after the deadline for the second installment payment)

4th Installment: \$2,506.25 (Due within 90 days after the deadline for the third installment payment)

Total Payment: \$10,050.00

CERTIFICATE OF SERVICE

I hereby certify that the original and a copy of the foregoing Consent Agreement and Final Order in the matter of Samirian Chemicals, Inc., with Docket # TSCA-09-2017-0005 has been filed with the Regional Hearing Clerk, Region IX and copies were sent:

By Certified Mail, Return Receipt Requested to Respondent:


Mr. Sam Liao, President
Samirian Chemicals, Inc.
1999 south Bascom Avenue
Campbell, CA 95008

Certified Mail Receipt # 7016 1370 0000 2234 8961

Hand Delivered to:

David Kim
Attorney-Adviser
Office of Regional Counsel
U.S. EPA, Region 9, ORC 2
75 Hawthorne Street
San Francisco, CA 94105

6/11/17
Date


FOR: Steven Armsey
Acting Regional Hearing Clerk