



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

AUG 26 2019

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Albert Fang
President
Fang Chemicals, Inc.
2865 Newnan Road
Carrollton, Georgia 30116

Re: Fang Chemicals, Inc.
Ratified Consent Agreement and Final Order
Docket No. TSCA-04-2019-9995(b)

Dear Mr. Fang:

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 have any questions concerning the compliance status in the future, please contact Mr. Tony Spann of the U. S. Environmental Protection Agency Region 4 staff at (404) 562-8971. Thank you for your cooperation in reaching a resolution of this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Larry L. Lamberth".

Larry L. Lamberth
Chief
Chemical Safety and Land Enforcement Branch

Enclosure

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA, GEORGIA

2019 AUG 26 PM 1:32

USEPA REGION 4
OFFICE OF GENERAL
COUNSEL

In the Matter of:)
)
Fang Chemicals, Inc.) Docket No. TSCA-04-2019-9995(b)
)
Respondent)
_____)

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 Administrator of the U. S. Environmental Protection Agency. On the EPA's behalf, the Director of the Enforcement and Compliance Assurance Division, EPA Region 4 is delegated the authority to settle civil administrative penalty proceedings under Section 16(a) of TSCA. Respondent is Fang Chemicals, Inc.
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), this Consent Agreement and Final Order (CAFO) will simultaneously commence and conclude this matter.

II. Preliminary Statements

3. Pursuant to Section 15 of TSCA, 15 U.S.C. § 2614, it is unlawful for any person to 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.
4. 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.

III. Specific Allegations

5. Respondent owns and operates chemical importing, exporting, and distribution business located at 2865 Newnan Road in Carrollton, Georgia (Facility).
6. Respondent is an importer as those terms are defined in 40 C.F.R. §§ 710.3 and 711.3.
7. On July 17, 2018, an authorized agent of the EPA Region 4 conducted an inspection at the Facility pursuant to Section 11(a) TSCA, 15 U.S.C. § 2610(a). During the inspection, the inspector reviewed certain records and documents provided by the Respondent.

Failure to Submit Chemical Data Reporting Information for 2016

8. Based on a review of the Respondent's 2015 import records, the EPA has determined that Respondent imported a reportable quantity (> 25,000 pounds) of phosphoric acid for commercial purposes during 2015.
9. Pursuant 40 C.F.R. § 711.5, any chemical substance that is in the Master Inventory File at the beginning of a submission period described in 40 C.F.R. § 711.20, unless the chemical substance is specifically excluded by 40 C.F.R. § 711.6, is subject to the TSCA CDR requirements promulgated at 40 C.F.R. Part 711.

10. Phosphoric acid was listed in the TSCA Master Inventory File at the beginning of the 2016 chemical data reporting (2016 CDR) submission period (June 1, 2016, through October 31, 2016).
11. Because phosphoric acid was listed the TSCA Master Inventory File at the beginning of 2016, it is subject to the 2016 CDR requirements.
12. As referenced in 40 C.F.R. § 711.15, any person who must report under 40 C.F.R. Part 711, as described in 40 C.F.R. § 711.8, must submit the information described in 40 C.F.R. § 711.15(b) 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 kilograms) or more at any one site during any calendar year since the last principal reporting year (e.g., for the 2016 submission period, this includes calendar years 2012, 2013, 2014, and 2015, because 2011 was the last principal reporting year).
13. Respondent was required to submit 2016 CDR information to the EPA for phosphoric acid during the submission period.
14. 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.
15. 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. By failing to submit the 2016 CDR information to the EPA for phosphoric acid as alleged above, the Respondent is alleged to be in violation of Section 15(2) of TSCA and is subject to the assessment of a civil penalty.

IV. Consent Agreement

16. 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.
17. 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.
18. 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.
19. Respondent certifies that to the best of its information and belief as of the date of its execution of this CAFO, it is in compliance with the TSCA regulations referenced in this CAFO.
20. 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 the United States 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.
21. 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

22. Respondent is assessed a civil penalty of **TWENTY-TWO THOUSAND FOUR HUNDRED AND SEVENTY-NINE (\$22,479)** which shall be paid within thirty (30) days of the effective date.

23. 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>

24. 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 or send proof of electronic payment, 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

Tony Spann
Chemical Safety Section
Redevelopment and Chemicals Branch
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

25. 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.
26. 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.
27. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
28. This CAFO shall be binding upon the Respondent and its successors and assigns.
29. 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.

VI. Effective Date

30. 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: Fang Chemicals, Inc.
Docket No.: TSCA-04-2019-9995(b)

By: Albert Fang
Name: ALBERT FANG
Title: PRESIDENT

Date: July 11, 2019

Complainant: U.S. Environmental Protection Agency

By: Suzanne S. Rubini
Suzanne Rubini
Acting Director
Enforcement and Compliance Assurance Division

Date: 8-9-2019

APPROVED AND SO ORDERED this 26th day of August, 2019.

By: Tanya Floyd
Tanya Floyd
Regional Judicial Officer

CERTIFICATE OF SERVICE

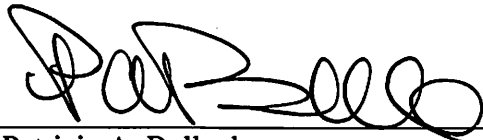
I hereby certify that on the date set out below, I filed the original and one copy of the foregoing Consent Agreement and Final Order and served a true and correct copy of the foregoing Consent Agreement and Final Order, In the Matter of Fang Chemicals, Inc. Docket Number: TSCA-04-2019-9995(b), to the addressees listed below.

Albert Fang (via Certified Mail, Return Receipt Requested)
President
Fang Chemicals, Inc.
2865 Newnan Road
Carrollton, Georgia 30116

Tony Spann (via EPA's internal mail)
Chemical Safety Section
Redevelopment and Chemicals Branch
U.S. EPA Region 4

Robert Caplan (via EPA's internal mail)
Senior Attorney
Office of Regional Counsel
U.S. EPA Region 4

By:



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

Date:

8-26-19