



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. Henry Liu  
Vice President  
Linhos Chemical, Inc.  
113 Progress Drive  
Rincon, Georgia 31326

Re: Linhos Chemical, Inc.  
Consent Agreement and Final Order  
Docket No. TSCA-04-2019-2503(b)

Dear Mr. Liu:

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. Gopal Timsina of the EPA Region 4 staff at (404) 562-9017. 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 1:29  
HEARINGS OFFICE  
OFFICE OF REGIONAL  
ADMINISTRATION  
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In the Matter of: )  
 )  
Liphos Chemical, Inc. )  
 )  
Respondent. )  
\_\_\_\_\_ )

Docket No. TSCA-04-2019-2503(b)

**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 CFR Part 22. Complainant is the Administrator of the United States Environmental Protection Agency (EPA). On EPA's behalf, the Director of the Enforcement and Compliance Assurance Division of EPA, Region 4 is delegated the authority to settle civil administrative penalty proceedings under Section 16(a) of TSCA. Respondent is Liphos Chemical, 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 CFR Part 19. Each day a violation continues may constitute a separate violation.
5. 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 26, 2017, 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**

6. Respondent operates a chemical importing business located at 113 Progress Drive in Rincon, Georgia.
7. Respondent is an importer as those terms are defined in 40 CFR § 710.3.
8. On July 12, 2017, Respondent submitted certain records to the EPA regarding Respondent's compliance with TSCA, including import, and export records.

### **Failure to Submit Chemical Data Reporting in 2016**

9. Pursuant to 40 CFR § 711.8(a)(2), any person who manufactured (including imported) for commercial purposes 25,000 pounds or more of a chemical substance described in

40 CFR § 711.5 at any single site owned or controlled by that person, in any of the calendar years 2012, 2013, 2014 or 2015 are subject to the Chemical Data Reporting (CDR) requirements in 40 CFR Part 711 for the 2016 submission period. Pursuant to 40 CFR § 711.20, the 2016 submission period ran from June 1, 2016, until October 31, 2016, and 2016 CDR reports were required to have been submitted to the EPA during that period of time.

10. Pursuant to 40 CFR § 711.5, any chemical substance that is in the TSCA Master Inventory File at the beginning of a submission period described in 40 CFR § 711.20 must be reported pursuant to the CDR requirements under Section 8(a) of TSCA and 40 CFR Part 711, unless the chemical substance is specifically excluded by 40 CFR § 711.6.
11. A review of Respondent's 2015 production records revealed that Respondent imported a reportable quantity (> 25,000 pounds) of Chemical A for commercial purposes at its Rincon site.
12. The Chemical A was listed on the TSCA Master Inventory File at the beginning of the CDR period (June 1, 2016, through October 31, 2016) identified at 40 CFR § 711.20 and is not specifically exempted from some or all of the CDR reporting requirements by 40 CFR § 711.6.
13. Pursuant to 40 CFR § 711.15, Respondent was required to submit to the EPA a 2016 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 2015 by no later than the end of the 2016 CDR submission period, October 31, 2016. The chemical substance referenced in paragraph 12 was subject to the 2016 CDR.

Respondent did not submit a 2016 CDR report for Chemical A within the submission period.

14. By not submitting the 2016 CDR report to the EPA during the submission period for the chemical substance referenced in paragraph 12, Respondent failed to comply with 40 CFR §§ 711.8 and 711.15.
15. As stated in 40 CFR § 711.1(c), Section 15(3) of TSCA makes it unlawful for any person to fail or refuse to submit information required under 40 CFR Part 711.
16. Section 16 of TSCA provides that any person who violates a provision of Section 15 of TSCA shall be liable to the United States for a civil penalty.

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

17. 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.
18. 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.
19. 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.
20. 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.
21. In accordance with 40 CFR § 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.

22. 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

23. Respondent is assessed a civil penalty of **Nineteen Thousand, One Hundred Twenty-Five Dollars (\$19,125)** which shall be paid within **30 days** of the effective date.
24. Respondent shall remit the penalty payment by either the electronic method below or 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>

25. At the time of payment, Respondent shall send a separate copy of the check or evidence of electronic payment 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

Gopal Timsina  
Chemical Safety Section  
U.S. EPA Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960

26. 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.
27. Pursuant to 31 U.S.C. § 3717 and 40 CFR § 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 CFR § 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 CFR § 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.

28. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
29. This CAFO shall be binding upon the Respondent and its successors and assigns.
30. 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.

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**VI. Effective Date**

31. 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: Linphos Chemical, Inc.**  
**Docket No.: TSCA-04-2019-2503(b)**

By: Henry Liu Date: 7-31-19  
Name: Henry Liu  
Title: VP

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

By: Suzanne G. Rubini Date: 8-9-19  
Suzanne G. Rubini  
Acting Director  
Enforcement and Compliance Assurance Division

**APPROVED AND SO ORDERED** this 26<sup>th</sup> day of August, 2019

By: Tanya Floyd  
Tanya Floyd  
Regional Judicial Officer

**CERTIFICATE OF SERVICE**

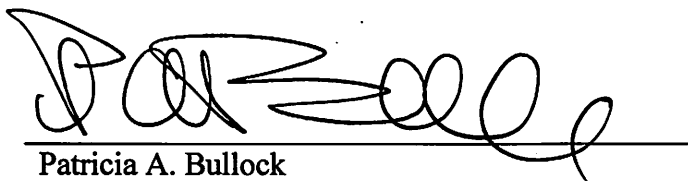
I hereby certify that on the date set out below, I filed the original and one copy of the foregoing Consent Agreement and Final Order and served a true and correct copy of the foregoing Consent Agreement and Final Order, In the Matter of Linphos Chemical, Inc. Docket Number: TSCA-04-2019-2503(b), to the addressees listed below.

Mr. Henry Liu (via Certified Mail, Return Receipt Requested)  
Vice President  
Linphos Chemical, Inc.  
113 Progress Drive  
Rincon, Georgia 31326

Gopal Timsina (via EPA's internal mail)  
Chemical Safety Section  
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