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U.S.EPA - Region 09

10 UNITED STATES  
11 ENVIRONMENTAL PROTECTION AGENCY  
12 REGION 9

13 **In the Matter of:**

Docket No. TSCA-09-2019- 0073

14 **Miles Chemical Company, Inc.,**

15 **Respondent.**

**CONSENT AGREEMENT AND FINAL  
ORDER PURSUANT TO 40 C.F.R.  
§§ 22.13 AND 22.18**

16 **CONSENT AGREEMENT**

17 The United States Environmental Protection Agency ("EPA"), Region 9, and Miles  
18 Chemical Company, Inc. ("Respondent") agree to settle this matter and consent to the entry  
19 of this Consent Agreement ("CAFO"), which simultaneously commences and concludes  
20 this matter in accordance with 40 C.F.R. §§ 22.13 and 22.18.  
21

22 **I. AUTHORITY, JURISDICTION AND PARTIES**

23  
24 1. This is a civil administrative penalty assessment proceeding initiated against Respondent  
25 pursuant to Section 16(a) of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. § 2615(a),  
26 for violation of Section 15(3)(B) of TSCA, 15 U.S.C. §2614(3)(B), and federal regulations  
27 promulgated to implement Section 8(a) of TSCA, 15 U.S.C. §2607(a), at 40 C.F.R. Part 711.  
28

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1       2. Complainant is the Chief, Toxics Section, Enforcement and Compliance Assurance  
2 Division, EPA, Region 9, who has been duly delegated the authority to initiate and settle civil  
3 administrative penalty proceedings under TSCA.  
4

5       3. Respondent is a California corporation engaged in chemical manufacture, chemical  
6 importing and exporting, chemical distribution, chemical formulating/ blending, third party  
7 warehousing/transportation, technical support, and laboratory services.

## 8 **II. STATUTORY AND REGULATORY AUTHORITY**

9       4. Section 8(a)(1)(A) of TSCA, 15 U.S.C. § 2607(a)(1)(A), provides that the EPA  
10 Administrator shall promulgate rules under which each person (other than a small manufacturer  
11 or processor) who manufactures or processes or proposes to manufacture or process a chemical  
12 substance shall maintain such records, and shall submit to the Administrator such reports, as the  
13 Administrator may reasonably require.  
14

15       5. 40 C.F.R. Part 711, entitled the TSCA Chemical Data Reporting Requirements, specifies  
16 reporting and recordkeeping procedures under TSCA Section 8(a) for certain manufacturers  
17 activities associated with the periodic update of information on a subset of the chemical  
18 substances included on the TSCA Inventory.  
19

20       6. 40 C.F.R. § 711.8(a) provides that, for submission periods subsequent to the 2012  
21 submission period, any person who manufactured (including imported) for commercial purposes  
22 25,000 lbs (11,340 kg) or more of a chemical substance described in § 711.5 at any single site  
23 owned or controlled by that person during any calendar year since the last principal reporting  
24 year is a person who must report under Part 711. For example, for the 2016 submission period, a  
25 subject person must report for calendar years 2012, 2013, 2014 and 2015, given that 2011 was  
26 the last principal reporting year.  
27  
28

1 7. 40 C.F.R. § 711.5 provides that any chemical substance that is in the Master Inventory  
2 File at the beginning of a submission period must be reported unless exempt by § 711.6.

3 8. "Master Inventory File" means EPA's comprehensive list of chemical substances which  
4 constitutes the TSCA Inventory compiled under TSCA Section 8(b). 40 C.F.R. § 711.3.

5 9. "Person" means, *inter alia*, any individual, firm, company, corporation, joint venture,  
6 partnership, sole proprietorship, association, or any other business entity; and any State or  
7 political subdivision thereof. 40 C.F.R. § 704.3.

8 10. "Import for commercial purposes" means to import with the purpose of obtaining an  
9 immediate or eventual commercial advantage for the importer, and includes the importation of  
10 any amount of a chemical substance or mixture. 40 C.F.R. § 704.3

11 11. "Manufacture for commercial purposes" means to manufacture, produce, or import with  
12 the purpose of obtaining an immediate or eventual commercial advantage for the manufacturer,  
13 and includes, *inter alia*, the manufacture of any amount of a chemical substance or mixture for  
14 commercial distribution, including test marketing, or for use by the manufacturer, including use  
15 for product research and development, or as an intermediate. 40 C.F.R. § 704.3.

16 12. "Site" means a contiguous property unit. More than one manufacturing plant may be  
17 located on a single site. The "site" for a person who imports a chemical substance described in  
18 §711.5 is the U.S. site of the operating unit within the person's organization that is directly  
19 responsible for importing the chemical substance. 40 C.F.R. § 711.3.

20 13. "Principal reporting year" means the latest complete calendar year preceding the  
21 submission period. 40 C.F.R. § 711.3.

22 14. 40 C.F.R. § 711.20 provides that all information reported to EPA in response to the  
23 requirements of this part must be submitted during an applicable submission period. The 2016  
24

1 CDR submission period is from June 1, 2016 to October 31, 2016.

2 15. 40 C.F.R. § 711.15 provides that, for the submission periods subsequent to the 2012  
3 submission period, any person who must report under this part, as described in §711.8, must  
4 submit the information described in this section for each chemical substance described in § 711.5  
5 that the person manufactured (including imported) for commercial purposes in an amount of  
6 25,000 lbs (11,340 kgs) or more at any one site during any calendar year since the principal  
7 reporting year. Therefore, for the 2016 submission period, a subject person must report for  
8 calendar years 2012, 2013, 2014 and 2015 because 2015 was the last principal reporting year.  
9

10 16. 40 C.F.R. § 711.15(a) provides that any person who reports information to EPA must do  
11 so using the e-CDRweb reporting tool provided by EPA at the address set forth in §711.35 and  
12 must submit a separate Form U for each site for which the person is required to report.  
13

14 17. TSCA Section 15(3)(B), 15 U.S.C. § 2614(3)(B), states that it unlawful for any person to  
15 fail or refuse to submit reports, notices or other information required by TSCA or a rule  
16 thereunder.  
17

18 18. Section 16(a) of TSCA, 15 U.S.C. § 2615(a), and the Civil Monetary Penalty Inflation  
19 Adjustment Rule at 40 C.F.R. Part 19, which implements the Federal Civil Penalties Inflation  
20 Adjustment Act of 1990, Pub. L. 101-410, authorize civil penalties not to exceed \$39,873 per  
21 day for each violation of Section 15 of TSCA that occurred after February 6, 2019.  
22

### 23 **III. ALLEGATIONS**

24 19. At all times relevant to this CAFO, Respondent was a “person” as that term is defined at  
25 40 C.F.R. § 704.3.

26 20. At all times relevant to this CAFO, Respondent operated a “site,” as defined at 40 C.F.R.  
27 § 711.3, located at 12801 Rangoon, Street, Arleta, CA 91331-4322 (“Arleta Site”).  
28

1 21. During calendar year 2014, Respondent “import[ed] for commercial purposes,” as  
2 defined at 40 C.F.R. § 704.3, more than 25,000 lbs of peroxydisulfuric acid, ammonium salt  
3 (1:2) (CAS No. 7727-54-0) (“ammonium persulfate”) to the Arleta Site.

4 22. During calendar years 2012, 2013, 2014 and 2015, Respondent “import[ed] for  
5 commercial purposes,” as defined at 40 C.F.R. § 704.3, more than 25,000 lbs of peroxydisulfuric  
6 acid, sodium salt (1:2) (CAS No. 7775-27-1) (“sodium persulfate”) to the Arleta Site.

7 23. Ammonium persulfate and sodium persulfate are each a chemical substance that was in  
8 the Master Inventory File at the beginning of the 2016 CDR submission period, as described by  
9 40 C.F.R. § 711.5.

10 24. Pursuant to 40 C.F.R. §§ 711.8, 711.15 and 711.20, between June 1, 2016 and October 1,  
11 2016, Respondent was required to submit a Form U to EPA reporting the chemical substance,  
12 ammonium persulfate, imported for commercial purposes to the Arleta Site during calendar year  
13 2014.

14 25. Between June 1, 2016 and October 1, 2016, Respondent failed to submit a Form U to  
15 EPA reporting the chemical substance, ammonium persulfate, imported for commercial purposes  
16 to the Arleta Site during calendar year 2014.

17 26. Pursuant to 40 C.F.R. §§ 711.8, 711.15 and 711.20, between June 1, 2016 and October 1,  
18 2016, Respondent was required to submit a Form U to EPA reporting the chemical substance,  
19 sodium persulfate, imported for commercial purposes to the Arleta Site during calendar years  
20 2012, 2013, 2014 and 2015.

21 27. Between June 1, 2016 and October 1, 2016, Respondent failed to submit a Form U to  
22 EPA reporting the chemical substance, sodium persulfate, imported for commercial purposes to  
23 the Arleta Site during calendar years 2012, 2013, 2014 and 2015.

1 28. Respondent's failures to timely submit a Form U to EPA reporting the chemical  
2 substances, ammonium persulfate and sodium persulfate, imported for commercial purposes to  
3 the Arleta Site during the 2016 CDR submission period, constitute two violations of 40 C.F.R.  
4 §§ 711.8, 711.15 and 711.20 and TSCA Section 15(3)(B).  
5

6 **IV. RESPONDENT'S ADMISSIONS**

7 29. In accordance with 40 C.F.R. § 22.18(b)(2) and for the purpose of this proceeding,  
8 Respondent: (i) admits that EPA has jurisdiction over the subject matter of this CAFO and over  
9 Respondent; (ii) neither admit nor deny the specific factual allegations contained in Section III of  
10 this CAFO; (iii) consents to the terms of this CAFO, including the assessment of the civil  
11 administrative penalty under Section V of this CAFO; (iv) waives any right to contest the  
12 allegations contained in Section III of this CAFO; and (v) waives the right to appeal the proposed  
13 Final Order contained in this CAFO.  
14

15 **V. CIVIL ADMINISTRATIVE PENALTY**

16 30. Respondent agrees to the assessment of a penalty in the amount of FORTY-FIVE  
17 THOUSAND DOLLARS (\$45,000) as final settlement of the civil claims against Respondent  
18 arising under the TSCA as alleged in Section III of this CAFO.  
19

20 31. Respondent shall pay the assessed penalty no later than thirty (30) days after the effective  
21 date of the CAFO. The assessed penalty shall be paid by certified or cashier's check, payable to  
22 "Treasurer, United States of America," or paid by one of the other methods listed below and sent  
23 as follows:  
24

25 Regular Mail:  
26 U.S. Environmental Protection Agency  
27 Fines and Penalties  
28 Cincinnati Finance Center  
PO Box 979077

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1 St. Louis, MO 63197-9000

2 Wire Transfers:

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

5 Federal Reserve Bank of New York

6 ABA = 021030004

7 Account = 68010727

8 SWIFT address = FRNYUS33

9 33 Liberty Street

10 New York, NY 10045

11 Field Tag 4200 of the Fedwire message should read "D 68010727

12 Environmental Protection Agency"

13 Overnight Mail:

14 U.S. Bank

15 1005 Convention Plaza

16 Mail Station SL-MO-C2GL

17 ATTN Box 979077

18 St. Louis, MO 63101

19 ACH (also known as REX or remittance express):

20 US Treasury REX/Cashlink ACH Receiver ABA = 051036706

21 Account Number: 310006, Environmental Protection Agency

22 CTX Format Transaction Code 22 - checking

23 Physical location of US Treasury Facility

24 5700 Rivertech Court

25 Riverdale, MD 20737

26 Remittance Express (REX) 1-866-234-5681

27 On Line Payment:

28 This payment option can be accessed from the information below:

[www.pay.gov](http://www.pay.gov)

Enter "sf01.1" 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

29 32. Concurrently, a copy of the check or notification that the payment has been made by one  
30 of the other methods listed above, including proof of the date payment was made, shall be sent  
31 with a transmittal letter indicating Respondent's name, the case title, and the docket number to  
32 the following addressees:

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1 Regional Hearing Clerk  
2 Office of Regional Counsel (ORC-1)  
3 U.S. Environmental Protection Agency, Region 9  
4 75 Hawthorne Street  
5 San Francisco, California 94105

6 Max Weintraub  
7 Toxics Section (ENF-4)  
8 Enforcement and Compliance Assurance Division  
9 U.S. Environmental Protection Agency, Region 9  
10 75 Hawthorne Street  
11 San Francisco, CA 94105

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

14 34. If Respondent fails to pay the assessed civil administrative penalty specified in Paragraph  
15 30 by the deadline specified in Paragraph 31, then Respondent shall pay to EPA a stipulated  
16 penalty of \$500 per day in addition to the assessed penalty. Stipulated penalties shall accrue  
17 until such time as the assessed penalty and all accrued stipulated penalties are paid and shall  
18 become due and payable upon written request by EPA. In addition, failure to pay the civil  
19 administrative penalty by the deadline specified in Paragraph 31 may lead to any or all of the  
20 following actions:

21 a. The debt being referred to a credit reporting agency, a collection agency, or to the  
22 Department of Justice for filing of a collection action in the appropriate United States District  
23 Court. 40 C.F.R. §§ 13.13, 13.14, and 13.33. In any such collection action, the validity,  
24 amount, and appropriateness of the assessed penalty and of this CAFO shall not be subject to  
25 review.

26 b. The debt being collected by administrative offset (i.e., the withholding of money payable  
27 by the United States to, or held by the United States for, a person to satisfy the debt the



1 person owes the Government), which includes, but is not limited to, referral to the Internal  
2 Revenue Service for offset against income tax refunds. 40 C.F.R. Part 13, Subparts C and H.

3 c. EPA may (i) suspend or revoke Respondent's licenses or other privileges; or (ii) suspend  
4 or disqualify Respondent from doing business with EPA or engaging in programs EPA  
5 sponsors or funds. 40 C.F.R. § 13.17.

6  
7 d. In accordance with the Debt Collection Act of 1982 and 40 C.F.R. Part 13, interest,  
8 penalties charges, and administrative costs will be assessed against the outstanding amount  
9 that Respondent owes to EPA for Respondent's failure to pay the civil administrative penalty  
10 by the deadline specified in Paragraph 31. Interest will be assessed at an annual rate that is  
11 equal to the rate of current value of funds to the United States Treasury (i.e., the Treasury tax  
12 and loan account rate) as prescribed and published by the Secretary of the Treasury in the  
13 Federal Register and the Treasury Fiscal Requirements Manual Bulletins. 40 C.F.R.  
14 § 13.11(a)(1). Penalty charges will be assessed monthly at a rate of 6% per annum. 40  
15 C.F.R. § 13.11(c). Administrative costs for handling and collecting Respondent's overdue  
16 debt will be based on either actual or average cost incurred, and will include both direct and  
17 indirect costs. 40 C.F.R. § 13.11(b). In addition, if this matter is referred to another  
18 department or agency (e.g., the Department of Justice, the Internal Revenue Service), that  
19 department or agency may assess its own administrative costs, in addition to EPA's  
20 administrative costs, for handling and collecting Respondent's overdue debt.  
21  
22  
23

## 24 **VI. RESPONDENT'S CERTIFICATION**

25 35. In executing this CAFO, Respondent certifies that it is now fully in compliance with the  
26 40 C.F.R. Part 711.

## 27 **VII. RETENTION OF RIGHTS**

28  
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1 36. In accordance with 40 C.F.R. § 22.18(c), this CAFO only resolves Respondent's liability  
2 for federal civil penalties for the violations and facts specifically alleged in Section III of this  
3 CAFO. Nothing in this CAFO is intended to or shall be construed to resolve (i) any civil liability  
4 for violations of any provision of any federal, state, or local law, statute, regulation, rule,  
5 ordinance, or permit not specifically alleged in Section III of this CAFO; or (ii) any criminal  
6 liability. EPA specifically reserves any and all authorities, rights, and remedies available to it  
7 (including, but not limited to, injunctive or other equitable relief or criminal sanctions) to address  
8 any violation of this CAFO or any violation not specifically alleged in Section III of this CAFO.  
9 This CAFO does not exempt, relieve, modify, or affect in any way Respondent's duty to comply  
10 with all applicable federal, state, and local laws, regulations, rules, ordinances, and permits.  
11

#### 13 **VIII. ATTORNEYS' FEES AND COSTS**

14 37. Each party shall bear its own attorneys' fees, costs, and disbursements incurred in this  
15 proceeding.  
16

#### 17 **IX. EFFECTIVE DATE**

18 38. In accordance with 40 C.F.R. §§ 22.18(b)(3) and 22.31(b), this CAFO shall be effective  
19 on the date that the final order contained in this CAFO, having been approved and issued by  
20 either the Regional Judicial Officer or Regional Administrator, is filed.  
21

#### 22 **X. BINDING EFFECT**

23 39. The undersigned representative of Complainant and the undersigned representative of  
24 Respondent each certifies that he or she is fully authorized to enter into the terms and conditions  
25 of this CAFO and to bind the party he or she represents to this CAFO.  
26

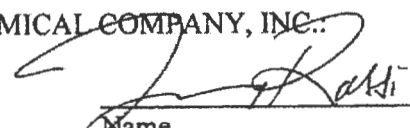
27 40. The provisions of this CAFO shall apply to and be binding upon Respondent and its  
28 officers, directors, employees, agents, trustees, servants, authorized representatives, successors,

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and assigns.

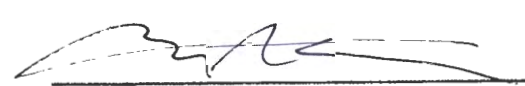
FOR RESPONDENT, MILES CHEMICAL COMPANY, INC.:

9/3/19  
DATE

  
CFO  
Name  
Title

FOR COMPLAINANT:

9/18/19  
DATE

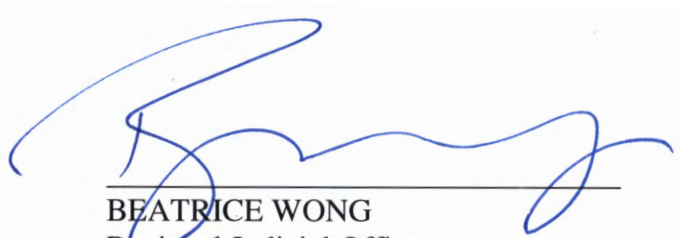
  
Matt Salazar  
Chief, Toxics Section  
Enforcement and Compliance Assurance Division  
U.S. Environmental Protection Agency, Region 9

1 **FINAL ORDER**

2 Complainant and Respondent, having entered into the foregoing Consent Agreement,

3 IT IS HEREBY ORDERED that this CAFO (Docket No. TSCA-09-2019-008) be  
4 entered, and that Respondent shall pay a civil administrative penalty in the amount of FORTY-  
5 FIVE THOUSAND DOLLARS (\$45,000) and comply with the terms and conditions set forth in  
6 the Consent Agreement. This Consent Agreement and Final Order shall become effective upon  
7 filing.  
8

9  
10 September 26, 2019  
11 DATE

12   
13 BEATRICE WONG  
14 Regional Judicial Officer  
15 U.S. Environmental Protection Agency,  
16 Region 9

**Certificate of Service**

I hereby certify the attached Consent Agreement and Final Order was sent to Respondent by U.S. Certified Mail, Return Receipt Requested this 30<sup>TH</sup> day of September, 2019 to:

Tony Rossi  
CFO  
Miles Chemical Company, Inc.  
12801 Rangoon Street  
Arleta, CA 91331

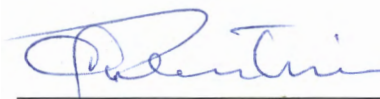
Certified Mail # 7015 0640 0001 1122 1854

I hereby certify a copy of the Consent Agreement and Final Order was delivered to the following Agency Attorney:

Brian Riedel  
U.S. EPA, Region IX  
75 Hawthorne Street (ORC-2-2)  
San Francisco, CA 94105

9/30/19

Date



FOR: Steven Armsey  
Regional Hearing Clerk  
U.S. EPA, Region IX  
75 Hawthorne Street (ORC-1)  
San Francisco, CA 94105