

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2

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In the Matter of :  
 :  
PeroxyChem, LLC : CONSENT AGREEMENT  
 : AND  
Respondent, : FINAL ORDER  
 :  
Proceeding under the Toxic Substances : Docket No.  
Control Act, 15 USC §§ 2601-2697 et seq. : TSCA-02-2019-9241  
as amended ("TSCA") :  
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PRELIMINARY STATEMENT

This administrative proceeding for the assessment of a civil penalty was instituted pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a). The Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits, 40 C.F.R. Part 22 (hereinafter "Consolidated Rules"), provide in 40 C.F.R. § 22.13(b) that when the parties agree to settle one or more causes of action before the filing of an Administrative Complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a Consent Agreement and Final Order pursuant to 40 C.F.R. §§ 22.18(b)(2) and (3).

The Director of the Enforcement and Compliance Assurance Division, United States Environmental Protection Agency, Region 2 (hereinafter "EPA" or "Complainant"), alleges that PeroxyChem, LLC (hereinafter "Respondent"), violated Section 8(a) of TSCA, 15 U.S.C. § 2607(a), and the regulations promulgated pursuant to that Section, set forth at 40 C.F.R. Part 711, relating to requirements for Chemical Data Reporting ("CDR") and Section 15(1) of TSCA, 15 U.S.C. § 2614(1).

EPA and Respondent agree that settling this matter by entering into this Consent Agreement and Final Order pursuant to 40 C.F.R. § 22.13(b) and 40 C.F.R. §§ 22.18(b)(2) and (3), is an appropriate means of resolving this case without further litigation. This Consent Agreement and Final Order is being issued pursuant to said provisions of 40 C.F.R. Part 22. No formal or adjudicated findings of fact or conclusions of law have been made. The following constitute Complainant's findings of fact and conclusions of law.

#### FINDINGS OF FACT

1. Respondent is PeroxyChem, LLC.
2. Respondent owns, operates, and/or controls the facility located at 35 Sawyer Avenue in Tonawanda, New York (hereinafter "Respondent's facility").
3. On July 18, 2018, EPA conducted an inspection of and at Respondent's facility.
4. As a result of this inspection, Respondent submitted to EPA certain information regarding the manufacturing, including importation, of chemical substances subject to TSCA.
5. According to the information described in paragraph 4, above, Respondent manufactured or imported chemical substances in volumes of 25,000 pounds or more during the reporting period January 1, 2012 through December 31, 2015.
6. On October 21, 2016, Respondent filed a timely CDR report for the period named in paragraph 5, above, through EPA's Central Data Exchange.
7. Respondent inaccurately reported production volume information during one or more years of the reporting period for the chemical substances identified by the Chemical Abstract Services Registry Numbers (CASRNs) 7727-21-1, 79-21-0, 7775-27-1 and 7727-54-0.
8. On April 17, 2019, Complainant and Respondent met for an informal settlement conference prior to the issuance of any enforcement action.

CONCLUSIONS OF LAW

1. Respondent, as the owner and/or operator of the facility which is the subject of this Consent Agreement and Final Order, is subject to the regulations and requirements pertaining to the reporting requirements promulgated pursuant to Section 8(b) of TSCA, 15 U.S.C. § 2607(b), and set forth at 40 C.F.R. Part 711.
2. Respondent is a "person" as that term is defined in 40 C.F.R. § 710.3.
3. Respondent is a "manufacturer" as that term is defined at 40 C.F.R. § 711.3.
4. Respondent's facility is a "site" as that term is defined at 40 C.F.R. § 711.3.
5. The submission period for the 2016 CDR was June 1 through October 31, 2016.
6. Pursuant to 40 C.F.R. § 711.15, the principal reporting year for the 2016 CDR was calendar year 2015.
7. CASRNs 7727-21-1, 79-21-0, 7775-27-1 and 7727-54-0 are each a "reportable chemical substance" as that term is defined at 40 C.F.R. § 711.3.
8. CASRNs 7727-21-1, 79-21-0, 7775-27-1 and 7727-54-0 were listed on EPA's "Master Inventory File" prior to the beginning of the principal reporting year applicable to this matter.
9. Pursuant to 40 C.F.R. § 711.5, CASRNs 7727-21-1, 79-21-0, 7775-27-1 and 7727-54-0 were chemical substances for which information must be reported.
10. Pursuant to 40 C.F.R. § 711.15(b)(3)(iii), for each reportable chemical substance reported for the principle reporting year, the total annual volume in pounds must be reported to two significant figures of accuracy.
11. Failure to meet the reporting requirements of 40 C.F.R. § 711.15 is a violation of 40 C.F.R. § 711.8, which is a violation of Sections 8(a) and 15(3) of TSCA, 15 U.S.C. §§ 2607(a) and 2614(3), respectively.

