

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

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In the Matter of :
Mitsuya Boeki USA, Inc. : CONSENT AGREEMENT AND
Respondent. : FINAL ORDER
Docket No. TSCA-02-2016-9141
Proceeding under Section 16(a) of :
the Toxic Substances Control Act. :
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REGIONAL HEARING
2016 SEP 27 PM 2:03
U.S. Environmental
Protection Agency-Region 2

PRELIMINARY STATEMENT

This administrative proceeding for the assessment of a civil penalty is instituted pursuant to Section 16(a) of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. § 2615(a). Pursuant to 40 C.F.R. § 22.13(b) of 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, where the parties agree to settlement of 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 ("CAFO") pursuant to 40 C.F.R. § 22.18(b)(2) and (3).

The Director of the Division of Enforcement and Compliance Assistance of the United States Environmental Protection Agency, Region 2 ("EPA" or "Complainant"), alleges that Mitsuya Boeki USA, Inc., ("MBUSA" or "Respondent") violated Section 8 of TSCA, 15 U.S.C. § 2607, and the regulations established under the authority of TSCA, set forth at 40 C.F.R. Part 711 ("Chemical Data

Reporting Requirements” or “CDR”) and that Respondent has thereby violated Section 15 of TSCA, 15 U.S.C. § 2614.

EPA and Respondent agree that settling this matter by entering into this Consent Agreement and Final Order (“CAFO”) pursuant to 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) is an appropriate means of resolving this case without further litigation.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Respondent is Mitsuya Boeki USA, Inc., incorporated in the State of New Jersey in 1999.
2. Respondent owns, operates and/or controls the facility in and around 250 Pehle Avenue, Saddle Brook, New Jersey 07663 (hereinafter, the “Facility”) that is the subject of this Consent Agreement.
3. Respondent is a "person" and "importer" within the meaning of 40 C.F.R. § 704.3.
4. Respondent is a "manufacturer" as that term is defined at 40 C.F.R. §§ 704.3 and 711.3.
5. Respondent manufactures (imports) chemical substances as those terms are defined by TSCA, 15 U.S.C. § 2602, and 40 C.F.R. Parts 704 and 711, and, as such, is subject to the requirements of Section 8 of TSCA, 15 U.S.C. § 2607, and the CDR requirements set forth at 40 C.F.R. Part 711.
6. Respondent does not meet either standard for exemption from the CDR requirements as a “small manufacturer or importer” set out at 40 C.F.R. § 704.3.
7. On July 24, 2014, a duly-designated EPA inspector conducted a TSCA inspection (the “Inspection”) at Respondent’s Facility.
8. During and subsequent to the Inspection, Respondent submitted records to EPA documenting its importation of seven chemical substances, Chemical A, Chemical B, Chemical C,

Chemical D, Chemical E, Chemical F, and Chemical G (hereafter referred to as “Chemicals A-G¹”), during calendar year 2011, the principal reporting year for the 2012 submission period, to Respondent’s Facility.

9. The records described in the previous paragraph further documented that Respondent imported Chemicals A-G in amounts exceeding the 25,000 pounds reporting threshold set out at 40 C.F.R. § 711.8.

10. At all relevant times, Chemicals A-G were “reportable chemical substances” and listed in the “Master Inventory File,” as those terms are defined at 40 C.F.R. § 711.3.

11. No exemptions within the meaning of 40 C.F.R. § 711.06 and 711.10 apply to Chemicals A-G or to Respondent’s manufacture (import) of them.

12. Pursuant to 40 C.F.R. §§ 711.5, 711.15(c), and 711.20, Respondent was required to report certain information regarding its manufacture (import) of Chemicals A-G, as described in paragraphs 8 and 9 above, to EPA during the 2012 CDR submission period of February 1, 2012 to August 13, 2012. Forty C.F.R. §§ 711.15 (a) and 711.35 specify the manner in which Respondent was to have reported the information.

13. As of the date of the Inspection, Respondent had not reported to EPA the required information regarding its manufacture (import) of Chemicals A-G, as described in paragraphs 8 and 9 above.

14. Section 15(3)(B) of TSCA, 15 U.S.C. § 2614(3)(B), provides that it is unlawful for any person to fail or refuse to submit reports, notices, or other information as required by this chapter (15 U.S.C. §§ 2601-2692) or a rule thereunder.

¹ The chemical identities of Chemicals A through G have been claimed as Confidential Business Information by Respondent pursuant to 40 C.F.R. § 711.30

