



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

MAY 04 2017

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Mr. Michael A. Teague  
Head of ESHA Services  
Clariant Corporation  
400 Monroe Road  
Charlotte, North Carolina 28205

Re: Clariant Corporation  
Consent Agreement and Final Order  
Docket No. TSCA-04-2017-2513(b)

Dear Mr. Teague:

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.

Also, enclosed please find a copy of the "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document puts Clariant Corporation, on notice of its potential duty to disclose to the Securities and Exchange Commission (SEC) any environmental enforcement actions taken by the U. S. Environmental Protection Agency Region 4.

Should you have any questions concerning the SEC's environmental disclosure requirements, or your compliance status in the future, please contact Mr. Verne George of the EPA Region 4 staff at (404) 562-8988. Thank you for your cooperation in reaching resolution of this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "AToney".

Anthony G. Toney  
Chief  
Chemical Safety and Enforcement Branch

Enclosures

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
ATLANTA, GEORGIA

In the Matter of: )  
 )  
Clariant Corporation ) Docket No. TSCA-04-2017-2513(b)  
 )  
Respondent. )  
\_\_\_\_\_ )

RECEIVED  
MAY 11 2017  
EPA REGION 4  
ATLANTA, GA

**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 Director of the Air, Pesticides and Toxics Management Division, U. S. Environmental Protection Agency, Region 4. Respondent is Clariant Corporation.
2. The authority to take action under Section 16(a) of TSCA, 15 U.S.C. § 2615(a), is vested in the Administrator of the EPA. The Administrator of the EPA has delegated this authority under TSCA to the EPA Region 4 Regional Administrator by the EPA Delegation 12-2-A, dated May 11, 1994. The Region 4 Regional Administrator has redelegated this authority to the Director of the Air, Pesticides and Toxics Management Division by the EPA Region 4 Delegation 12-2-A, dated January 14, 2009. Pursuant to that Delegation, the Director of the Air, Pesticides and Toxics Management Division has

the authority to commence an enforcement action as the Complainant in this matter and has the authority to sign Consent Agreements memorializing settlements between the EPA and Respondents.

3. 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**

4. Pursuant to Section 15 of TSCA, 15 U.S.C. § 2614, it is unlawful for any person to: (1) fail or refuse to comply with any rule promulgated or order issued under Section 4 of TSCA, 15 U.S.C. § 2603; and (2) 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.
5. 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.
6. 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 February 25, 2016, 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**

7. Respondent owns and operates chemical importing and manufacturing facilities located at 625 Catawba Avenue, Mount Holly, North Carolina and at 4000 Monroe Road, Charlotte, North Carolina.
8. Respondent is a manufacturer and an importer as those terms are defined in 40 C.F.R. § § 710.3 and 711.3.
9. On June 26, 2014, an authorized agent of the EPA Region 4 conducted an inspection at Respondent's Mount Holly plant site pursuant to Section 11 (a) of TSCA, 15 U.S.C. § 2610(a).

#### **Failure to Submit Chemical Data Reporting Information for 2011**

10. Pursuant to 40 C.F.R. § 711.8(a), any person who manufactured (including imported) for commercial purposes 25,000 pounds (11,340 kilogram (kg)) or more of a chemical substance described in 40 C.F.R. § 711.5 at any single site owned or controlled by that person during the principal reporting year (i.e., calendar year 2011) is subject to the Chemical Data Reporting (CDR) requirements under Section 8(a) of TSCA, 15 U.S.C. § 2607(a) and 40 C.F.R. Part 711.
11. A review of Respondent's 2011 production records revealed that the Respondent manufactured a reportable quantity (> 25,000 pounds) of the following chemical substances at the Mount Holly plant site in Mount Holly, North Carolina: Chemical B; Chemical D; Chemical F; Chemical G; and Chemical H for commercial purposes.

12. On August 28, 2014, EPA's Headquarters office in Washington D.C. provided chemical import data to the EPA Region 4 pertaining to chemicals imported by Respondent through ports located in Region 4 states.
13. A review of the chemical import data provided by the EPA Headquarters to the EPA Region 4 office also revealed that Respondent imported a reportable quantity of Chemical J in 2011.
14. All six chemical substances referenced in paragraphs 11 and 13 were listed on the TSCA Master Inventory File at the beginning of the CDR period, February 1, 2012.
15. Pursuant to 40 C.F.R. § 711.15, Respondent was required to submit to the EPA a 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 2011, by no later than the end of the reporting period, August 13, 2012. The six chemical substances referenced in paragraphs 11 and 13 were subject to the 2012 CDR.
16. Pursuant to 40 C.F.R. §§ 711.15 and 711.35, any person who reports CDR information to the EPA must do so using the e-CDRweb reporting tool provided by the EPA at <http://www.epa.gov/iur>. The Respondent did not report CDR information for 2011 during the submission period (February 1, 2012 through August 13, 2012).
17. By not submitting the 2012 CDR Report to the EPA during the submission period for the six chemical substances referenced in paragraphs 11 and 13, Respondent failed to comply with 40 C.F.R. § 711.15.
18. 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.

19. 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 and may be criminally prosecuted.

**Over- and Under-Reporting of Chemicals Manufactured or Imported**

20. A review of Respondent's 2011 production records revealed that the Respondent imported a reportable quantity of Chemical L for commercial purpose in 2011 and manufactured reportable quantities of the following chemical substances: Chemical M; Chemical N; and Chemical O in 2011.
21. During the 2012 CDR period (February 1, 2012, through August 13, 2012), Respondent submitted to the EPA a 2012 CDR for the four chemical substances referenced in paragraph 20, that were manufactured or imported for commercial purpose.
22. 40 C.F.R. § 711.15(b)(3)(iii) requires that the total annual volume (in pounds) of each reportable chemical substance manufactured or imported must be reported to two significant figures of accuracy. A comparison between Respondent's 2011 production records and Respondent's 2012 CDR Report revealed that the four chemical substances referenced in paragraph 20 were over-reported (not reported to two significant figures of accuracy).
23. A review of Respondent's 2011 production records also revealed that the Respondent manufactured reportable quantities of the following nine chemical substances: Chemical P; Chemical Q; Chemical R; Chemical S; Chemical T; Chemical U; Chemical W; Chemical X; and Chemical Y.
24. During the 2012 CDR period (February 1, 2012, through August 13, 2012), Respondent submitted to the EPA a 2012 CDR Report for chemical substances, including the

chemical substances referenced in paragraph 23, that were manufactured for commercial purposes.

25. 40 C.F.R. § 711.15(b)(3)(iii) requires that the total annual volume (in pounds) of each reportable chemical substance manufactured or imported must be reported to two significant figures of accuracy. A comparison between Respondent's 2011 production records and Respondent's 2012 CDR Report revealed that the nine chemical substances referenced in paragraph 23 were under-reported (not reported to two significant figures of accuracy).
26. On January 26, 2017, Respondent submitted an amended 2012 CDR Report that includes the nineteen chemical substances referenced above that were: (1) not reported; (2) over-reported; or (3) under-reported.
27. 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.
28. 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 and may be criminally prosecuted.

#### **Test Rule Violation**

29. A review of the chemical import data provided to the EPA Region 4 by the EPA Headquarters as referenced in paragraph 13 above, revealed that between June 15, 2011, and April 16, 2014, Respondent imported several shipments of Chemical J.
30. During the import period (June 15, 2011, and April 16, 2014), Chemical J was subject to a test rule promulgated pursuant to Section 4 of TSCA, and 40 C.F.R. Part 799, and in particular at 40 C.F.R. Part 799. [CBI deleted].

31. Pursuant to Section 4 of TSCA and 40 C.F.R. Part 799, manufacturers, importers or processors must either submit to the EPA a letter of intent to test or apply to and obtain from the EPA an exemption from testing.
32. Based on Chemical J's import dates, Respondent was required to submit to the EPA a letter of intent to test or an exemption from testing Chemical J on or before [CBI deleted].
33. Respondent did not submit a letter of intent to test or an exemption from testing Chemical J on or before [CBI deleted].
34. By not submitting a letter of intent to test or an exemption from testing Chemical J on or before [CBI deleted], Respondent was not in compliance with Section 4 of TSCA, and 40 C.F.R. Part 799, and in particular 40 C.F.R. § 799. [CBI deleted].
35. On December 19, 2016, Respondent submitted to the EPA an exemption notice for Chemical J.
36. Pursuant to 40 C.F.R. § 799. [CBI deleted], a manufacturer, importer or processor will be considered in violation of the test rule as of one day after the date by which they are required to comply with a final rule promulgated at 40 C.F.R. § 799. [CBI deleted].
37. Pursuant to 40 C.F.R. § 799.17, any person who fails or refuses to comply with any aspect of a test rule under 40 C.F.R. Part 799 is in violation of Section 15 of TSCA.
38. Section 15 of TSCA makes it unlawful for any person to fail or refuse to comply with any rule promulgated or order issued under TSCA Section 4.
39. Section 16 of TSCA provides that any person who violates a provision of TSCA Section 15 is liable to the United States for a civil penalty and may be criminally prosecuted.



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

40. 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.
41. 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.
42. 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.
43. 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.
44. Compliance with this CAFO shall resolve the allegations of the violations contained herein. This CAFO shall not otherwise affect any liability of Respondent to the United States. Other than as expressed herein, neither the EPA nor Complainant waives any right to bring an enforcement action against Respondent for violation of any federal or state statute, regulation or permit, to initiate an action for imminent and substantial endangerment, or to pursue criminal enforcement.
45. 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**

46. Respondent is assessed a civil penalty of **THREE HUNDRED FORTY-SIX THOUSAND, SEVEN HUNDRED FIFTEEN (\$346,715)** which shall be paid within thirty (30) days of the effective date.
47. 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

48. 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, 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

Verne George  
Chemical Management and Emergency Planning Section  
U.S. EPA Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960

49. 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.
50. 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.
51. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
52. This CAFO shall be binding upon the Respondent and its successors and assigns.
53. 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**

54. 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: Clariant Corporation.**

**Docket No.: TSCA-04-2017-2513(b)**

By: C. S. Barnard Date: 3-17-2017  
Name: C. S. Barnard  
Title: Sr. V.P. - Legal

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

By: Carol H. Kemker for Date: 4/5/17  
Beverly H. Banister  
Director  
Air, Pesticides and Toxics Management Division

**APPROVED AND SO ORDERED** this 3<sup>rd</sup> day of May, 2017.  
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 Clariant Corporation, Docket Number: TSCA-04-2017-2513(b), to the addressees listed below.

Mr. Michael A. Teague  
Head of ESHA Services  
Clariant Corporation  
400 Monroe Road  
Charlotte, North Carolina 28205

(via Certified Mail, Return Receipt Requested)

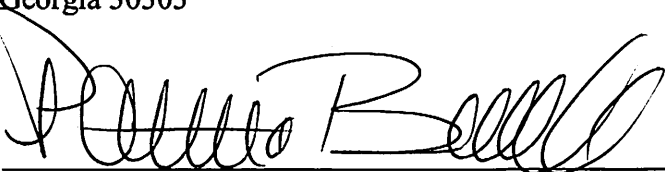
Verne George  
Chemical Management and Emergency  
Planning Section  
U.S. EPA Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303

(via EPA's internal mail)

Robert Caplan  
Senior Attorney  
Office of Regional Counsel  
U.S. EPA Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303

(via EPA's internal mail)

By:



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

Date:

5-4-17