



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

MAY 25 2010

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Mr. Dennis Oldland  
Corporate Manager  
AVX Corporation  
801 17<sup>th</sup> Avenue South  
Myrtle Beach, South Carolina 29578

Re: AVX Corporation  
Docket No. TSCA-04-2010-2718(b)

Dear Mr. Oldland:

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.

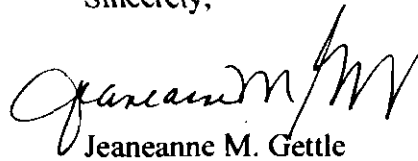
As stated in Section V of the CAFO, the assessed penalty of \$55,901 is due within 30 days from the effective date. Please ensure that the face of your cashier's or certified check includes the name of the company and the Docket Number of this case.

Penalty payment questions should be directed to Ms. Lori Weidner either by telephone at (513) 487-2125 or by written correspondence to her attention at the U.S. Environmental Protection Agency's (EPA's) Cincinnati Accounting Operations address identified in the CAFO. Should you have any questions about this matter or your compliance status in the future, please call me at (404) 562-8979 or Mr. Tony Spann at (404) 562-8971.

Also enclosed is a copy of a document entitled "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document

puts you on notice of your potential duty to disclose to the Securities and Exchange Commission (SEC) any environmental enforcement actions taken by EPA.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jeaneanne M. Gettle', written in a cursive style.

Jeaneanne M. Gettle  
Chief  
Pesticides and Toxic  
Substances Branch

Enclosures

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
ATLANTA, GEORGIA

RECEIVED  
EPA REGION 4  
2010 MAY 25 PM 3:17  
HEARING OFFICE

In the Matter of: )  
 )  
AVX Corporation )  
 )  
 )  
Respondent. )  
\_\_\_\_\_ )

Docket No. TSCA-04-2010-2718(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 C.F.R. Part 22. Complainant is the Director of the Air, Pesticides, and Toxics Management Division, United States Environmental Protection Agency, Region 4 (EPA). Respondent is AVX Corporation (hereinafter, "Respondent").
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.

AVX Corporation  
Docket No. TSCA-04-2010-2718(b)

## **II. Preliminary Statements**

3. 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 or order promulgated pursuant to Sections 4, 5, 8, 12, or 13 of TSCA (15 U.S.C. § 2603, § 2604, § 2607, § 2611, or § 2612); (2) use for commercial purposes a chemical substance or mixture that the person knew or had reason to know was manufactured, imported, processed, or distributed in commerce in violation of TSCA Section 5, 15 U.S.C. § 2604; (3) fail to maintain records, submit reports or information, or permit access to or allow copying of records as required by TSCA; and (4) refuse to permit entry or inspection as authorized by Section 11 of TSCA, 15 U.S.C. § 2610. Any person who violates a provision of Section 15 of TSCA may be assessed a penalty of up to \$27,500 for each such violation, in accordance with Section 16(a) of TSCA. Pursuant to the Civil Monetary Penalty Inflation Rule, 40 C.F.R. Part 19, effective January 12, 2009, the statutory penalty amount has been adjusted due to inflation to \$37,500. Each day a violation continues may constitute a separate violation.
4. The authority to take action under Section 16(a) of TSCA, 15 U.S.C. § 2615(a), is vested in the Administrator of EPA. The Administrator of EPA has delegated this authority under TSCA to EPA Region 4 by EPA Delegation 12-2-A, dated May 11, 1994.
5. Complainant will file the original non-confidential CAFO with the Regional Hearing Clerk and a copy will be mailed to the Respondent. To determine the Confidential Business Information (CBI) that was deleted (CBI deleted) from this CAFO, Complainant or Respondent should refer to EPA's Confidential Notice of Violation.
6. Pursuant to 40 C.F.R. § 22.5(c)(4), the following individual represents EPA in this matter and is authorized to receive service for EPA in this proceeding:

Tony Spann  
Chemical Products and  
Asbestos Section  
U.S. EPA Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303-8960  
(404) 562-8971

**III. Specific Allegations**

7. Respondent owns and operates an electronic component manufacturing business located at 801 17<sup>th</sup> Avenue South, Myrtle Beach, South Carolina.
8. Respondent is an importer as the term is defined in 40 C.F.R. § 704.3.
9. On June 5, 2008, an authorized agent of EPA Region 4 conducted an audit at Respondent's office pursuant to Section 11(a) of TSCA, 15 U.S.C. § 2610(a).
10. Respondent imported [CBI deleted] pounds of Chemical A in 2005.
11. Respondent imported [CBI deleted] pounds of Chemical B in 2005.
12. Respondent imported [CBI deleted] pounds of Chemical C in 2005.
13. Chemicals A, B, and C were subject to the 2006 Inventory Update Reporting (IUR) as described in 40 C.F.R. § 710, Subpart C.
14. As described in 40 C.F.R. § 710.53, the 2006 IUR reporting period for Chemicals A, B, and C was August 23, 2006, through March 23, 2007.
15. Respondent failed to submit the 2006 IUR Report to EPA for Chemicals A, B, and C during the reporting period described in 40 C.F.R. § 710.53.
16. Pursuant 40 C.F.R. § 710.1(c) and Section 15(3) of TSCA it is unlawful for any person to fail or refuse to submit information required under the IUR Regulations.

#### **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 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 all relevant requirements of TSCA.
21. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to Section 16(a) of TSCA, for the specific violations alleged herein. Except as specifically provided in this CAFO, EPA reserves all other civil and criminal enforcement authorities, including the authority to address imminent hazards. Compliance with this CAFO shall not be a defense to any other actions subsequently commenced pursuant to federal laws and regulations administered by EPA, and it is Respondent's responsibility to comply with said 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 Fifty Five Thousand Nine Hundred One Dollars (\$55,901) which shall be paid within 30 days from the effective date of this CAFO.

24. Respondent shall remit the civil penalty by either a cashier's or certified check made payable to the "Treasurer, United States of America," and shall send the check to the following address by U.S. Postal Service:

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
PO Box 979077  
St. Louis, MO 63197-9000.

**The check shall reference on its face the name of the Respondent and Docket Number of this CAFO.**

For payment submittal by any overnight mail service (Fed Ex, UPS, DHL, etc.):

U. S. Bank  
1005 Convention Plaza  
Mail Station SL-MO-C2GL  
St. Louis, MO 63101

Contact: Natalie Pearson (314) 418-4087

25. At the time of payment, Respondent shall send a separate copy of the check and a written statement that the payment has been made in accordance with this CAFO, to each of the following persons at the following addresses:

Regional Hearing Clerk  
U.S. EPA Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960;

Tony Spann  
Chemical Products and  
Asbestos Section  
U.S: EPA Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303-8960;

and

Saundi Wilson  
Office of Environmental Accountability  
U.S. EPA - Region 4  
61 Forsyth Street  
Atlanta, Georgia 30303-8960.

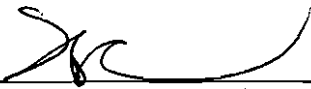
26. For the purposes of state and federal income taxation, Respondent shall not be entitled, and agrees not to attempt, to claim a deduction for any civil penalty payment made pursuant to this CAFO. Any attempt by Respondent to deduct any such payments shall constitute a violation of this CAFO.
27. Pursuant to 31 U.S.C. § 3717, 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. Interest will therefore begin to accrue on the civil penalty from the date of entry of this CAFO, if the penalty is not paid by the date required. 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, its successors and assigns.
30. The undersigned representative of the party to this CAFO certifies that he or she is fully authorized by the party represented to enter into this CAFO and legally binds that party to this CAFO.

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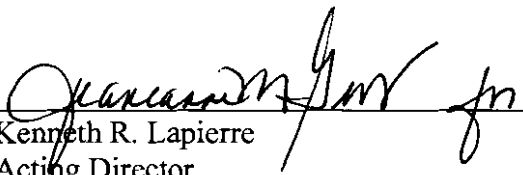


**AGREED AND CONSENTED TO.**


**Respondent:** AVX Corporation  
**Docket No.:** TSCA-04-2010-2718(b)

By:  (Signature) Date: 4/23/10  
Name: KURT CUMMINGS (Typed or Printed)  
Title: VP CFO (Typed or Printed)

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

By:  Date: 5-17-2010  
Kenneth R. Lapierre  
Acting Director  
Air, Pesticides and Toxics  
Management Division  
61 Forsyth Street  
Atlanta, Georgia 30303-8960

**APPROVED AND SO ORDERED** this 25<sup>th</sup> day of May, 2010.

By:   
Susan B. Schub  
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: AVX Corporation, Docket Number: [TSCA-04-2010-2718(b)], to the addressees listed below.

Dennis Oldland  
Corporate Manager  
AVX Corporation  
801 17<sup>th</sup> Avenue South  
Myrtle Beach, SC 29578

(via Certified Mail, Return Receipt Requested)

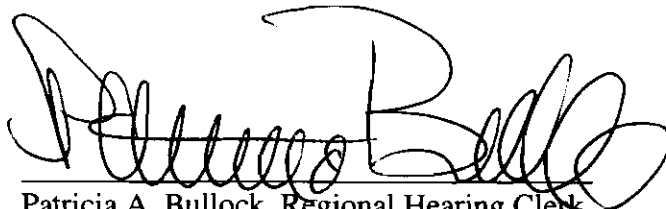
Tony Spann  
Chemical Products and  
Asbestos Section  
U.S. EPA Region 4  
61 Forsyth Street, S.W.  
Atlanta, GA 30303

(via EPA's internal mail)

Robert Caplan, Attorney  
Office of Environmental Accountability  
U.S. EPA, Region 4  
61 Forsyth St., SW  
Atlanta, GA 30303

(via EPA's internal mail)

Date: 5-25-10



Patricia A. Bullock, Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 4  
Atlanta Federal Center  
61 Forsyth St., SW  
Atlanta, GA 30303  
(404) 562-9511

**EPA ACCOUNTS RECEIVABLE CONTROL NUMBER FORM**

**TO BE COMPLETED BY THE ORIGINATING OFFICE:**

(Attach a copy of the final order and transmittal letter to Defendant/Respondent)

This form was originated by: Saundi Wilson on 5/21/10  
(Name) (Date)

in the Region 4, ORC, OEA at (404) 562-9504  
(Office) (Telephone Number)

Non-SF Judicial Order/Consent Decree  
USAO COLLECTS

Administrative Order/Consent Agreement  
FMO COLLECTS PAYMENT

SF Judicial Order/Consent Decree  
DOJ COLLECTS

Oversight Billing - Cost Package required:  
Sent with bill

Not sent with bill

Other Receivable

Oversight Billing - Cost Package not required

This is an original debt

This is a modification

PAYEE: AVX Corporation  
(Name of person and/or Company/Municipality making the payment)

The Total Dollar Amount of the Receivable: \$ 55,901--  
(If installments, attach schedule of amounts and respective due dates. See Other side of this form.)

The Case Docket Number: TSCA 04 2010 2718(b)

The Site Specific Superfund Account Number: \_\_\_\_\_

The Designated Regional/Headquarters Program Office: \_\_\_\_\_

The IFMS Accounts Receivable Control Number is: \_\_\_\_\_ Date \_\_\_\_\_

If you have any questions, please call: \_\_\_\_\_ of the Financial Management Section at: \_\_\_\_\_

**DISTRIBUTION:**

A. **JUDICIAL ORDERS:** Copies of this form with an attached copy of the front page of the **FINAL JUDICIAL ORDER** should be mailed to:

- |  |   |
|--|---|
| 1. Debt Tracking Officer<br>Environmental Enforcement Section<br>Department of Justice RM 1647<br>P.O. Box 7611, Benjamin Franklin Station<br>Washington, D.C. 20044 | 2. Originating Office (EAD)<br>3. Designated Program Office |
|--|---|

B. **ADMINISTRATIVE ORDERS:** Copies of this form with an attached copy of the front page of the Administrative Order should be to:

- |  |   |
|--|---|
| 1. Originating Office<br>2. Regional Hearing Clerk | 3. Designated Program Office<br>4. Regional Counsel (EAD) |
|--|---|