



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

SEP 13 2018

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Scott McNair
Vice President of Plant Management
3V Sigma USA, Inc.
888 Woodstock Street
Georgetown, South Carolina 29440

Re: 3V Sigma USA, Inc.
Consent Agreement and Final Order
Docket No. TSCA-04-2018-2520(b)

Dear Mr. McNair:

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.

Should you have any questions concerning the compliance status in the future, please contact Mr. Gopal Timsina of the U.S. Environmental Protection Agency Region 4 staff at (404) 562-9017. Thank you for your cooperation in reaching resolution of this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Anthony G. Toney".

Anthony G. Toney
Chief

Chemical Safety and Enforcement Branch

Enclosure

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA, GEORGIA

In the Matter of:)
)
3V Sigma USA, Inc.)
)
Respondent.)
_____)

Docket No. TSCA-04-2018-2520(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 CFR Part 22. Complainant is the Director of the Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency Region 4. Respondent is 3V Sigma USA, Inc.
2. The authority to take action under Section 16(a) of TSCA, 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 re delegated 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 CFR § 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 CFR § 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 fail or refuse to comply with Section 12(b) of TSCA, 15 U.S.C. § 2611(b).
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 CFR 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 October 26, 2017, 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 operates a chemical importing, exporting and manufacturing business located at 888 Woodstock Street in Georgetown, South Carolina.
8. Respondent is a manufacturer, an importer and an exporter as those terms are defined in 40 CFR §§ 710.3, 711.3 and 707.63.

9. On March 13, 2017, Respondent submitted certain records to the EPA regarding Respondent's compliance with TSCA, including manufacturing, import, and export records.

Failure to Submit Export Notifications to the EPA

10. Pursuant to 40 CFR § 721.20, persons who intend to export a chemical substance identified in 40 CFR Part 721, Subpart E, or in any proposed rule which would amend Subpart E, are subject to the export notification provisions of Section 12(b) of TSCA and the regulations that interpret TSCA Section 12(b), promulgated at 40 CFR Part 707.
11. Pursuant to Section 12(b) of TSCA, as also noted in 40 CFR § 707.60(a), any person who exports or intends to export a chemical substance or mixture must notify the EPA of such exportation to a particular country if any of the following actions have been taken pursuant to TSCA with respect to that chemical substance or mixture: (1) data are required under Section 4 or 5(b); (2) an order has been issued under Section 5; (3) a rule has been proposed or promulgated under Section 5; or (4) an action is pending, or relief has been granted under Section 5 or 7.
12. A review of Respondent's export records from 2014 to 2016 showed that during those years, Respondent exported Chemical E to [CBI deleted] and [CBI deleted].
13. On [CBI deleted], the EPA issued a final significant new use rule (SNUR) for Chemical E pursuant to Section 5 of TSCA promulgated at 40 CFR Part 721, Subpart E. The Chemical E SNUR, effective [CBI deleted], requires exporters to submit notice of exports to the EPA if they export or intend to export Chemical E to a foreign country.
14. Pursuant to 40 CFR § 707.65(a)(3), an export notice must be postmarked within seven days of forming the intent to export or on the date of export, whichever is earlier.

15. Respondent submitted export notices for Chemical E to the EPA on [CBI deleted], after the date of export.
16. By failing to submit the export notices for Chemical E, postmarked on or before the date of export, Respondent failed to comply with Section 12(b) of TSCA and 40 CFR § 707.60(a).
17. Pursuant to 40 CFR § 707.60(f), failure to comply with Section 12(b) of TSCA as set forth in 40 CFR Part 707 will be considered a violation of Section 15(3) and will subject the exporter to the penalty, enforcement, and seizure provisions of Sections 16 and 17.

IV. Consent Agreement

18. 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.
19. 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.
20. 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.
21. Respondent has agreed to undertake and complete a supplemental environmental project in accordance with Section VI of this CAFO.
22. 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.
23. In accordance with 40 CFR § 22.18(c), compliance with this CAFO only resolves Respondent's liability for federal civil penalties for the allegations in Section III of this CAFO and does not affect the right of the EPA or U.S. to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law. This CAFO does not

waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable provisions of TSCA or other applicable laws and regulations.

24. 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

25. Respondent is assessed a civil penalty of **Three Thousand, Nine Hundred Sixty-Seven Dollars (\$3,967)** which shall be paid within thirty (30) days of the effective date.
26. Respondent shall remit the penalty payment by either the electronic methods below, or 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

Electronic Payment:

Any electronic payment method as indicated in the EPA's electronic payment options web site found at:
<https://www.epa.gov/financial/makepayment#electronic>

27. At the time of payment, Respondent shall send a separate copy of the check or evidence of electronic payment 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

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

28. 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.

VI. Supplemental Environmental Project (SEP)

29. Respondent shall satisfactorily complete an Environmental Management System SEP (the SEP) consisting of the development and implementation of an organizational process including modification of Respondent's existing Enterprise Resource Planning system (ERP system) to ensure compliance with the reporting and notification requirements under TSCA. The modifications to the ERP system will include a process for automatic internal notifications for sales and/or purchase orders which require TSCA compliance and the capability for the system to enable Respondent to systematically audit their compliance status.
30. "Satisfactory completion" of the SEP shall mean:
- a. Respondent spent at least \$17,000 in allowable costs in completing the SEP;

- b. Respondent completed the modification of its ERP system pursuant to the SEP;
 - c. Respondent's modified ERP system provides automatic internal notifications for sales and/or purchase orders which require TSCA compliance;
 - d. Respondent's modified ERP system allows for systematic audits for compliance with TSCA;
 - e. Respondent developed and implemented a written process for ensuring compliance with the TSCA reporting and notification requirements using its modified ERP system; and
 - f. Respondent completed the SEP within ninety (90) days of the effective date of this Consent Agreement.
31. This CAFO shall not be construed to constitute the EPA's endorsement of any product, equipment, technology or service purchased by Respondent in connection with the SEP.
32. With regard to the SEP, Respondent certifies the truth and accuracy of the following:
- a. That all cost information provided to the EPA in connection with the EPA's approval of the SEP is complete and accurate, that Respondent in good faith estimates that the approximate cost to implement the SEP is \$18,000 and that Respondent understands that the civil penalty of \$3,967, identified in paragraph 25, is based on Respondent spending at least \$17,000 in completing the SEP;
 - b. That, as of the effective date of this CAFO, Respondent is not required to perform or develop the SEP by any federal, state or local law, regulation, permit, order or agreement and is not required to perform or develop the SEP by agreement, grant or as injunctive relief awarded in any other action in any forum;

- c. That the SEP is not a project the Respondent was planning or intending to construct, perform or implement other than in settlement of the claim resolved in this CAFO;
 - d. That Respondent has not received and will not receive credit for the SEP in any other enforcement action of any kind;
 - e. That Respondent will not receive reimbursement for any portion of the SEP from another person or entity;
 - f. That for federal income tax purposes, Respondent agrees it will neither capitalize into inventory or basis nor deduct any costs or expenditures incurred in performing the SEP; and
 - g. That Respondent is not a party to any open federal financial assistance transaction that is funding or could fund the same activity as the SEP.
33. Respondent agrees that any public statement, oral or written, in print film or other media made by Respondent making any reference to the SEP under this CAFO from the effective date of this CAFO shall include the following language:
- “This project was undertaken in connection with the settlement of an enforcement action taken by the U.S. Environmental Protection Agency for violation of Section 15(3) of the Toxic Substances Control Act (TSCA)”.*
34. Respondent shall complete and submit a SEP Completion Report for the SEP under this CAFO as follows:
- a. The SEP Completion Report shall include the following:
 - i. An affidavit from an authorized company official, certifying that the SEP has been completed or explaining in detail any failure to complete;

- ii. Copies of appropriate documentation, including invoices and receipts, showing that Respondent's total expenditure for the SEP was no less than the minimum total expenditure required above; and
 - iii. A copy of the written process for ensuring compliance with the TSCA reporting and notification requirements using its modified ERP system.
- b. The SEP Completion Report shall be submitted to the EPA within thirty (30) days of the completion of the SEP to the following:

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

35. Upon request, Respondent shall send the EPA any additional documentation requested by the EPA.
36. Respondent agrees that in order to receive credit for the SEP, Respondent must fully and timely complete the SEP in accordance with and as indicated in this CAFO. In the event that Respondent fails to comply with any of the terms or provisions of this CAFO relating to the performance of the SEP, Respondent shall be liable for stipulated penalties according to the provisions set forth below.
- a. Except as provided in subparagraph (b) immediately below, for a SEP which has not been completed satisfactorily pursuant to this CAFO, the Respondent shall pay a stipulated penalty to the United States in the amount of \$11,900.
 - b. If the SEP is not completed in accordance with paragraphs 29-30, but the EPA determines that the Respondent: 1) made good faith and timely efforts to complete the SEP; and 2) certifies, with supporting documentation, that at least \$17,000

was spent by Respondent on the SEP, the Respondent shall not be liable for any stipulated penalty.

- c. If the SEP is completed in accordance with paragraphs 29-30, but the Respondent spent less than \$17,000, the Respondent shall pay a stipulated penalty to the United States in the amount of the difference between \$17,000 and the actual SEP expenditure.
 - d. If Respondent fails to timely submit the SEP interim reports or the SEP completion report as required by this CAFO, Respondent shall pay to the United States a stipulated penalty of \$100 for each calendar day that the report is late.
 - e. The United States may, in the unreviewable exercise of its discretion, reduce or waive stipulated penalties otherwise due under this CAFO.
37. The determination as to whether Respondent has fully and timely completed the SEP shall be in the sole discretion of the EPA.
38. Respondent shall pay any stipulated penalties that accrue under this CAFO within fifteen (15) calendar days of the receipt by Respondent of written demand from the EPA for such penalties. Such penalties shall be paid in accordance with the procedures set forth in the written demand from the EPA.

VII. General Provisions

39. Pursuant to 31 U.S.C. § 3717 and 40 CFR § 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 CFR § 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 CFR § 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.

40. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
41. This CAFO shall be binding upon the Respondent and its successors and assigns.
42. 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.

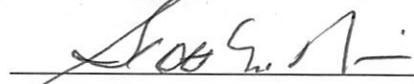
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VIII. Effective Date

43. 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:

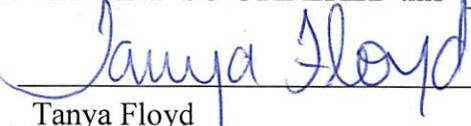
Respondent: 3V Sigma USA, Inc.
Docket No.: TSCA-04-2018-2520(b)

By:  Date: 08/16/2018
Name: Scott McNeil
Title: Vice President Plant Management

Complainant: U.S. Environmental Protection Agency

By:  Date: 8-24-18
for Beverly H. Banister
Director
Air, Pesticides and Toxics Management Division

APPROVED AND SO ORDERED this 12th day of September, 2018

By: 
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 3V Sigma USA, Inc. Docket Number: TSCA-04-2018-2520(b), to the addressees listed below.

Mr. Scott McNair (via Certified Mail, Return Receipt Requested)
Vice President of Plant Management
3V Sigma USA, Inc.
888 Woodstock Street
Georgetown, South Carolina 29440

Gopal Timsina (via EPA's internal mail)
Chemical Management and Emergency
Planning Section
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

Robert Caplan (via EPA's internal mail)
Senior Attorney
Office of Regional Counsel
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

By: _____

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

Date: _____

9-13-18