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2 UNITED STATES
3 ENVIRONMENTAL PROTECTION AGENCY
4 REGION IX
5 75 HAWTHORNE STREET
6 SAN FRANCISCO, CA 94105

** FILED **
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U.S.EPA - Region 09

5 In the Matter of:)
6 American Vanguard Corporation,) Docket No. TSCA-09-2015-0017
7) CONSENT AGREEMENT
8) AND FINAL ORDER
9) PURSUANT TO 40 C.F.R.
10) §§ 22.13 and 22.18
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Respondent.

10 I. CONSENT AGREEMENT

11 The United States Environmental Protection Agency, Region IX
12 ("EPA") and American Vanguard Corporation ("Respondent") agree to
13 settle this matter and consent to the entry of this Consent
14 Agreement and Final Order ("CAFO"), which simultaneously
15 initiates and concludes this matter in accordance with 40 C.F.R.
16 §§ 22.13(b) and 22.18(b).

17 A. AUTHORITY AND PARTIES

18 1. This is a civil administrative penalty action initiated
19 against Respondent pursuant to Section 16(a) of the Toxic
20 Substances Control Act ("TSCA"), 15 U.S.C. § 2615(a), for
21 violation of Section 8(a) of TSCA, 15 U.S.C. §2607(a), and
22 federal regulations promulgated to implement Section 8(a) at 40
23 C.F.R. Part 711.

24 2. Complainant is the Chief of the Waste and Chemical
25 Section in the Air, Waste and Toxics Branch of the Enforcement
26 Division, EPA, Region IX, who has been duly delegated the
27 authority to bring this action and to sign a consent agreement
28 settling this action.

1 3. Respondent is a Delaware corporation with headquarters
2 offices located at 4695 East MacArthur Court, Suite 1200 in
3 Newport Beach, California.

4 B. APPLICABLE STATUTORY AND REGULATORY SECTIONS

5 4. Section 8(a)(1)(A) of TSCA, 15 U.S.C. § 2607(a)(1)(A),
6 provides that the EPA Administrator shall promulgate rules under
7 which each person (other than a small manufacturer or processor)
8 who manufactures or processes or proposes to manufacture or
9 process a chemical substance shall maintain such records, and
10 shall submit to the Administrator such reports, as the
11 Administrator may reasonably require.

12 5. 40 C.F.R. Part 710 establishes regulations governing
13 reporting and recordkeeping by certain persons who manufacture,
14 import, or process chemical substances for commercial purposes
15 under TSCA Section 8(a) and applies to the activities associated
16 with the compilation of the TSCA Chemical Substance Inventory
17 ("TSCA Inventory") and the update of information on a subset of
18 the chemical substances included on the TSCA Inventory.

19 6. 40 C.F.R. Part 711 specifies reporting and recordkeeping
20 procedures under TSCA Section 8(a) for certain manufacturers
21 (including importers) of chemical substances and applies to the
22 activities associated with the periodic update of information on
23 a subset of the chemical substances included on the TSCA
24 Inventory.

25 7. 40 C.F.R. § 711.8(a) provides that, for the 2012
26 submission period, any person who manufactured (including
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1 imported) for commercial purposes 25,000 lbs (11,340 kilograms
2 [kg]) or more of a chemical substance described in § 711.5 at any
3 single site owned or controlled by that person during the
4 principal reporting year (i.e., calendar year 2011) is subject to
5 reporting.

6 8. 40 C.F.R. § 711.5 provides that any chemical substance
7 that is in the Master Inventory File at the beginning of a
8 submission period must be reported unless exempt by § 711.6.

9 9. "Master Inventory File" means EPA's comprehensive list
10 of chemical substances which constitutes the TSCA Inventory
11 compiled under TSCA Section 8(b). 40 C.F.R. § 711.3.

12 10. "Person" means any natural or judicial person including
13 any individual, corporation, partnership, or association, any
14 State or political subdivision thereof, or an municipality, any
15 interstate body and any department, agency, or instrumentality of
16 the Federal Government. 40 C.F.R. § 710.3.

17 11. "Manufacture or import 'for commercial purposes'" means
18 to manufacture, produce, or import with the purpose of obtaining
19 an immediate or eventual commercial advantage, and includes, for
20 example, the manufacture or import of any amount of a chemical
21 substance or mixture for commercial distribution, including test
22 marketing, or for use by the manufacturer, including use for
23 product research and development, or as an intermediate. 40
24 C.F.R. § 710.3.

25 12. The "site" for an importer who imports a chemical
26 substance is the U.S. site of the operating unit within the
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1 person's organization that is directly responsible for importing
2 the chemical substance. 40 C.F.R. § 711.3.

3 13. "Principal reporting year" means the latest complete
4 calendar year preceding the submission period. 40 C.F.R. §
5 711.3.

6 14. 40 C.F.R. § 711.20 provides that all information
7 reported to EPA in response to the requirements of this part must
8 be submitted during an applicable submission period. The 2012
9 CDR submission period is from February 1, 2012 to August 13,
10 2012.

11 15. "U.S. Parent Company" means the highest level company,
12 located in the United States, that directly owns at least 50% of
13 the voting stock of the manufacturer. 40 C.F.R. § 711.3.

14 16. 40 C.F.R. § 711.15 provides that, for the 2012
15 submission period, any person who must report under this part, as
16 described in § 711.8, must submit the information described in
17 this section for each chemical substance described in § 711.5
18 that the person manufactured (including imported) for commercial
19 purposes in an amount of 25,000 lbs (11,340 kgs) or more at any
20 one site during the principal reporting year (i.e., calendar year
21 2011).

22 17. 40 C.F.R. § 711.15(a) provides that any person who
23 reports information to EPA must do so using the e-CDRweb
24 reporting tool provided by EPA at the address set forth in §
25 711.35 and must submit a separate Form U for each site for which
26 the person is required to report.

1 18. TSCA Section 15(3)(B), 15 U.S.C. § 2614(3)(B), states
2 that it unlawful for any person to fail or refuse to submit
3 reports, notices or other information required by TSCA or a rule
4 thereunder.

5 19. Section 16(a) of TSCA, 15 U.S.C. § 2615(a), and the
6 Civil Monetary Penalty Inflation Adjustment Rule at 40 C.F.R.
7 Part 19, which implements the Federal Civil Penalties Inflation
8 Adjustment Act of 1990, Pub. L. 101-410, authorize civil
9 penalties not to exceed \$37,500 per day for each violation of
10 Section 15 of TSCA that occurred after January 12, 2009.

11 C. ALLEGATIONS

12 20. Respondent is a "person" as that term is defined at 40
13 C.F.R. § 710.3.

14 21. During calendar year 2011, Respondent was the "U.S.
15 Parent Company," as that term is defined at 40 C.F.R. § 711.3, of
16 AMVAC Chemical Corporation located at 4100 East Washington
17 Boulevard in Los Angeles, California ("AMVAC") and GemChem, Inc.
18 located at Canton Business Park, 95 River Road, Suite B in
19 Canton, Connecticut ("GemChem") (hereinafter collectively referred
20 to as "Respondent's Subsidiaries").

21 22. During calendar year 2011, AMVAC and GemChem were each
22 a "site," as that term is defined at 40 C.F.R. § 711.3, that
23 Respondent owned or controlled.

24 23. During calendar year 2011, Respondent through
25 Respondent's Subsidiaries "imported for commercial purposes," as
26 those terms are defined at 40 C.F.R. § 710.3, more than 25,000
27 lbs of Trichloroethanal (CAS No.75-87-6), Phenol, 2,4-dichloro-

1 (CAS No.120-83-2), and Phosphorothioic trichloride (3982-91-0) by
2 AMVAC and more than 25,000 lbs of Trichloroethanal (CAS No.75-87-
3 6) by GemChem.

4 24. Trichloroethanal (CAS No.75-87-6), Phenol, 2,4-
5 dichloro- (CAS No.120-83-2), and Phosphorothioic trichloride
6 (3982-91-0) are each a chemical substance that was in the Master
7 Inventory File at the beginning of the 2012 submission period, as
8 described by 40 C.F.R. § 711.5.

9 25. Accordingly, pursuant to 40 C.F.R. §§ 711.8, 711.15 and
10 711.20, between February 1, 2012 and August 13, 2012, Respondent
11 was required to submit a Form U to EPA reporting the chemical
12 substances, Trichloroethanal (CAS No.75-87-6), Phenol, 2,4-
13 dichloro- (CAS No.120-83-2), and Phosphorothioic trichloride
14 (3982-91-0), imported for commercial purposes by AMVAC during
15 calendar year 2011 and a Form U reporting the chemical substance,
16 Trichloroethanal (CAS No.75-87-6), imported for commercial
17 purposes by GemChem during calendar year 2011.

18 26. Between February 1, 2012 and August 13, 2012,
19 Respondent failed to submit a Form U to EPA reporting the
20 chemical substances, Trichloroethanal (CAS No.75-87-6), Phenol,
21 2,4-dichloro- (CAS No.120-83-2), and Phosphorothioic trichloride
22 (3982-91-0), imported for commercial purposes by AMVAC during
23 calendar year 2011 and a Form U reporting the chemical substance,
24 Trichloroethanal (CAS No.75-87-6), imported for commercial
25 purposes by GemChem during calendar year 2011.

26 27. Respondent's failures constitute four (4) violations of
27 40 C.F.R. §§ 711.8, 711.15 and 711.20 and TSCA Section 15(3)(B),

1 15 U.S.C. § 2614(3)(B).

2 D. RESPONDENT'S ADMISSIONS

3 28. In accordance with 40 C.F.R. § 22.18(b)(2) and for the
4 purpose of this proceeding, Respondent (i) admits that EPA has
5 jurisdiction over the subject matter of this CAFO and over
6 Respondent; (ii) neither admits nor denies the specific factual
7 allegations contained in Section I.C of this CAFO; (iii) consents
8 to any and all conditions specified in this CAFO and to the
9 assessment of the civil administrative penalty under Section I.E
10 of this CAFO; (iv) waives any right to contest the allegations
11 contained in Section I.C of this CAFO; and (v) waives the right
12 to appeal the proposed final order contained in this CAFO.

13 E. CIVIL ADMINISTRATIVE PENALTY

14 29. Respondent agrees to the assessment of a penalty in the
15 amount of EIGHTY-ONE THOUSAND, EIGHT HUNDRED AND FIFTY-FIVE
16 DOLLARS (\$81,855) as final settlement of the civil claims against
17 Respondent arising under TSCA as alleged in Section I.C of this
18 CAFO.

19 30. Respondent shall pay the assessed penalty no later than
20 thirty (30) days after the effective date of the CAFO.

21 The assessed penalty shall be paid by **certified or cashier's**
22 **check**, payable to "Treasurer, United States of America," or paid
23 by one of the other methods listed below and sent as follows:

24 Regular Mail:

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

1 Wire Transfers:

2 Wire transfers must be sent directly to the Federal Reserve Bank
3 in New York City with the following information:

4 Federal Reserve Bank of New York
5 ABA = 021030004
6 Account = 68010727
7 SWIFT address = FRNYUS33
8 33 Liberty Street
9 New York, NY 10045
10 Field Tag 4200 of the Fedwire message should read "D 68010727
11 Environmental Protection Agency"

12 Overnight Mail:

13 U.S. Bank
14 1005 Convention Plaza
15 Mail Station SL-MO-C2GL
16 ATTN Box 979077
17 St. Louis, MO 63101

18 ACH (also known as REX or remittance express):

19 Automated Clearinghouse (ACH) for receiving US currency
20 PNC Bank
21 808 17th Street, NW
22 Washington, DC 20074
23 ABA = 051036706
24 Transaction Code 22 - checking
25 Environmental Protection Agency
26 Account 31006
27 CTX Format

28 On Line Payment:

19 This payment option can be accessed from the information below:

20 www.pay.gov
21 Enter "sf01.1" in the search field
22 Open form and complete required fields

23 If clarification regarding a particular method of payment
24 remittance is needed, contact the EPA Cincinnati Finance Center
25 at 513-487-2091.

26 Concurrently, a copy of the check or notification that the
27 payment has been made by one of the other methods listed above,
28 including proof of the date payment was made, shall be sent with
a transmittal letter indicating Respondent's name, the case

1 title, and the docket number to:

2 a) Regional Hearing Clerk (ORC-1)
3 Office of Regional Counsel
4 U.S. Environmental Protection Agency, Region IX
5 75 Hawthorne Street
6 San Francisco, California 94105

7 b) Aisha Kennedy
8 Waste & Chemical Section (ENF-2-2)
9 Enforcement Division
10 U.S. Environmental Protection Agency, Region IX
11 75 Hawthorne Street
12 San Francisco, CA 94105

13 31. Payment of the above civil administrative penalty shall
14 not be used by Respondent or any other person as a tax deduction
15 from Respondent's federal, state, or local taxes.

16 32. If Respondent fails to pay the assessed civil
17 administrative penalty specified in Paragraph 29 by the deadline
18 specified in Paragraph 30, then Respondent shall pay to EPA a
19 stipulated penalty of \$500 per day in addition to the assessed
20 penalty. Stipulated penalties shall accrue until such time as
21 the assessed penalty and all accrued stipulated penalties are
22 paid and shall become due and payable upon written request by
23 EPA. In addition, failure to pay the civil administrative
24 penalty by the deadline specified in Paragraph 30 may lead to any
25 or all of the following actions:

26 a. The debt being referred to a credit reporting agency, a
27 collection agency, or to the Department of Justice for filing of
28 a collection action in the appropriate United States District
Court. 40 C.F.R. §§ 13.13, 13.14, and 13.33. In any such
collection action, the validity, amount, and appropriateness of
the assessed penalty and of this CAFO shall not be subject to

1 review.

2 b. The debt being collected by administrative offset (i.e., the
3 withholding of money payable by the United States to, or held by
4 the United States for, a person to satisfy the debt the person
5 owes the Government), which includes, but is not limited to,
6 referral to the Internal Revenue Service for offset against
7 income tax refunds. 40 C.F.R. Part 13, Subparts C and H.

8 c. EPA may (i) suspend or revoke Respondent's licenses or other
9 privileges; or (ii) suspend or disqualify Respondent from doing
10 business with EPA or engaging in programs EPA sponsors or funds.
11 40 C.F.R. § 13.17.

12 d. In accordance with the Debt Collection Act of 1982 and 40
13 C.F.R. Part 13 interest, penalties charges, and administrative
14 costs will be assessed against the outstanding amount that
15 Respondent owes to EPA for Respondent's failure to pay the civil
16 administrative penalty by the deadline specified in Paragraph 30.
17 Interest will be assessed at an annual rate that is equal to the
18 rate of current value of funds to the United States Treasury
19 (i.e., the Treasury tax and loan account rate) as prescribed and
20 published by the Secretary of the Treasury in the Federal
21 Register and the Treasury Fiscal Requirements Manual Bulletins.
22 40 C.F.R. § 13.11(a)(1). Penalty charges will be assessed
23 monthly at a rate of 6% per annum. 40 C.F.R. § 13.11(c).
24 Administrative costs for handling and collecting Respondent's
25 overdue debt will be based on either actual or average cost
26 incurred, and will include both direct and indirect costs. 40
27 C.F.R. § 13.11(b). In addition, if this matter is referred to

1 another department or agency (e.g., the Department of Justice,
2 the Internal Revenue Service), that department or agency may
3 assess its own administrative costs, in addition to EPA's
4 administrative costs, for handling and collecting Respondent's
5 overdue debt.

6 F. RESPONDENT'S CERTIFICATION

7 33. In executing this CAFO, Respondent certifies that it
8 is now fully in compliance with TSCA Section 8(a) and federal
9 regulations promulgated to implement Section 8(a) at 40 C.F.R.
10 Part 711.

11 G. RETENTION OF RIGHTS

12 34. In accordance with 40 C.F.R. § 22.18(c), this CAFO only
13 resolves Respondent's liability for federal civil penalties for
14 the violations and facts specifically alleged in Section I.C of
15 this CAFO. Nothing in this CAFO is intended to or shall be
16 construed to resolve (i) any civil liability for violations of
17 any provision of any federal, state, or local law, statute,
18 regulation, rule, ordinance, or permit not specifically alleged
19 in Section I.C of this CAFO; or (ii) any criminal liability. EPA
20 specifically reserves any and all authorities, rights, and
21 remedies available to it (including, but not limited to,
22 injunctive or other equitable relief or criminal sanctions) to
23 address any violation of this CAFO or any violation not
24 specifically alleged in Section I.C of this CAFO.

25 35. This CAFO does not exempt, relieve, modify, or affect
26 in any way Respondent's duty to comply with all applicable
27 federal, state, and local laws, regulations, rules, ordinances,

1 and permits.

2 H. ATTORNEYS' FEES AND COSTS

3 36. Each party shall bear its own attorneys' fees, costs,
4 and disbursements incurred in this proceeding.

5 I. EFFECTIVE DATE

6 37. In accordance with 40 C.F.R. §§ 22.18(b)(3) and
7 22.31(b), this CAFO shall be effective on the date that the final
8 order contained in this CAFO, having been approved and issued by
9 either the Regional Judicial Officer or Regional Administrator,
10 is filed.

11 J. BINDING EFFECT

12 38. The undersigned representative of Complainant and the
13 undersigned representative of Respondent each certifies that he
14 or she is fully authorized to enter into the terms and conditions
15 of this CAFO and to bind the party he or she represents to this
16 CAFO.

17 39. The provisions of this CAFO shall apply to and be
18 binding upon Respondent and its officers, directors, employees,
19 agents, trustees, servants, authorized representatives,
20 successors, and assigns.

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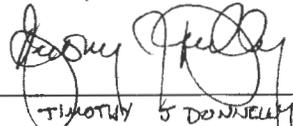
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28

1 FOR RESPONDENT, AMERICAN VANGUARD CORPORATION

2 9.22.2015



3 DATE

Name TIMOTHY S DONNELLY
Title CAO, GENERAL COUNSEL & Secy
American Vanguard Corporation

6 FOR COMPLAINANT, U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION IX:

8 9/29/15



9 DATE

Douglas K. McDaniel
Chief, Waste & Chemical Section
Enforcement Division
U.S. ENVIRONMENTAL PROTECTION AGENCY,
REGION IX

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II. FINAL ORDER

Complainant and Respondent, having entered into the foregoing Consent Agreement,

IT IS HEREBY ORDERED that this CAFO (Docket No. TSCA-09-2015-0017) be entered, and that Respondent shall pay a civil administrative penalty in the amount of EIGHTY-ONE THOUSAND, EIGHT HUNDRED AND FIFTY-FIVE DOLLARS (\$81,855) and comply with the terms and conditions set forth in the Consent Agreement.

This Consent Agreement and Final Order shall become effective upon filing.

09/30/15

DATE



STEVEN L. JAWGIEL
Regional Judicial Officer
U.S. Environmental Protection
Agency, Region IX

CERTIFICATE OF SERVICE

I hereby certify that the original and a copy of the foregoing Consent Agreement and Final Order in the matter of American Vanguard Corporation with Docket # TSCA-09-2015- 0017 has been filed with the Regional Hearing Clerk, Region 9, and a copy was sent:

By Certified Mail, Return Receipt Requested to Respondent:

Timothy J. Donnelly
Chief Administrative Officer, General Counsel & Secretary
American Vanguard Corporation
4695 East MacArthur Court, Suite 1200
Newport Beach, CA 92660

Certified Mail No. 7014 1820 0000 4722 5058

9/30/15

Date



TCR:

Steven Armsey
Regional Hearing Clerk
Office of Regional Counsel, Region 9