



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

DEC 13 2019

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Mr. Michael Porter, Esq.  
The Michael Porter Law Firm  
5851 Ramsey Street  
Fayetteville, North Carolina 28311

Re: Vanguard Culinary Group, Ltd.  
Ratified Consent Agreement and Final Order  
Docket No. EPCRA-04-2020-0602(b)

Dear Mr. Porter:

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. 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 or your client have any questions concerning this matter or Vanguard Culinary Group's compliance status in the future, please contact Lucia Mendez of the U.S. Environmental Protection Agency Region 4 staff at (404) 562-9637.

Sincerely,

A handwritten signature in blue ink, appearing to read "Todd Russo", with a long horizontal flourish extending to the left.

Todd Russo  
Chief  
Air Enforcement Branch

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
Region 4

In the Matter of:

**Vanguard Culinary Group, Ltd.**

Respondent.

Docket No. EPCRA-04-2020-0602(b)

RECEIVED  
OFFICE OF THE  
REGIONAL ADMINISTRATOR  
APR 15 2020

**CONSENT AGREEMENT**

**I. NATURE OF ACTION**

1. This is an administrative penalty assessment proceeding brought under Section 325 of the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11045 (EPCRA), and Section 109 of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. § 9609 (CERCLA), and Sections 22.13(b) and 22.18 of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), as codified at Title 40 of the Code of Federal Regulations (C.F.R.), Part 22.
2. This Consent Agreement and the attached Final Order shall collectively be referred to as the CAFO.
3. Having found that settlement is consistent with the provisions and objectives of the EPCRA and CERCLA and applicable regulations, the Parties have agreed to settle this action pursuant to 40 C.F.R. § 22.18 and consent to the entry of this CAFO without adjudication of any issues of law or fact herein.

**II. PARTIES**

4. Complainant is the Director of the Enforcement and Compliance Assurance Division, United States Environmental Protection Agency ("EPA"), Region 4, who has been delegated the authority on behalf of the Administrator of the United States Environmental Protection Agency (EPA) to enter into this CAFO pursuant to 40 C.F.R. Part 22 and Section 325 of EPCRA, 42 U.S.C. § 11045, and Section 109 of CERCLA, 42 U.S.C. § 9609.
5. Respondent is Vanguard Culinary Group (Respondent), a corporation doing business in the State of North Carolina. This proceeding pertains to Respondent's facility located at 716 Whitfield Street, Fayetteville, North Carolina 28306 (Facility).

### III. GOVERNING LAW

#### EPCRA

6. Section 304(a) of EPCRA, 42 U.S.C. § 11004(a) and the regulations found at 40 C.F.R. Part 355, Subpart C, require the owner or operator of a facility at which a hazardous chemical is produced, used or stored, to immediately provide notice to the State Emergency Response Commission (SERC) and Local Emergency Planning Committee (LEPC) as described in Section 304(b) of EPCRA, 42 U.S.C. § 11004(b), when there has been a release of an EPCRA extremely hazardous substance, or a CERCLA hazardous substance in an amount equal to or greater than the reportable quantity (RQ) from a facility. Section 304(a) does not apply to any release which results in exposure to persons solely within the site or sites on which a facility is located.
7. Section 304(c) of EPCRA, 42 U.S.C. § 11004(c) and the regulations found at 40 C.F.R. Part 355, Subpart C, require the owner or operator of a facility at which a hazardous chemical is produced, used or stored, to provide a written follow-up emergency notification to the SERC and LEPC as soon as practicable after the release as described in Section 304(b) of EPCRA, 42 U.S.C. § 11004(b), when there has been a release of an EPCRA extremely hazardous substance, or a CERCLA hazardous substance in an amount equal to or greater than the RQ from a facility.
8. Ammonia is an "extremely hazardous substance" as that term is defined by Section 329(3) of EPCRA, 42 U.S.C. § 11049(3), with an RQ of 100 pounds, as specified in 40 C.F.R. § 355 Appendices A & B.
9. Section 312 of EPCRA, 42 U.S.C. § 11022 and 40 C.F.R. Part 370, provide that the owner or operator of any facility that is required to prepare or have available a Material Safety Data Sheet (MSDS) or a Safety Data Sheet (SDS) for hazardous chemicals under the Occupational Safety and Health Act of 1970 (OSHA) and regulations promulgated under OSHA, shall submit to the LEPC, the SERC, and the fire department with jurisdiction over the facility a completed Emergency and Hazardous Chemical Inventory Form (Tier I or Tier II), pursuant to 40 C.F.R. § 370.40, containing the required information for hazardous chemicals present at the facility at any one time in the calendar year in amounts equal to or greater than 10,000 pounds and containing the required information for extremely hazardous substances (EHS) present at the facility at any one time in amounts equal to or greater than the threshold planning quantity (TPQ) or 500 pounds, whichever is less, by March 1 for the preceding calendar year.
10. Ammonia and sulfuric acid are hazardous chemicals as defined by Section 329(5) of EPCRA, 42 U.S.C. § 11049(5) and EHS as defined by Section 329(3) of EPCRA, 42 U.S.C. § 11049(3), with TPQs of 500 pounds.
11. The owner or operator of a facility is required under 29 C.F.R. §1910.1200(g) to prepare or have available an MSDS or SDS for ammonia and sulfuric acid.
12. "Facility" means all buildings, equipment, structures, and other stationary items which are located on a single site or on contiguous or adjacent sites and which are owned or operated by the same person (or by any person which controls, is controlled by, or under common control with, such person). *Facility* includes manmade structures, as well as all natural structures in which chemicals are purposefully placed or removed through human means such that it functions as a containment structure for human use. For purposes of section 304 of EPCRA, the term

includes motor vehicles, rolling stock, and aircraft. Section 329(4) of EPCRA, 42 U.S.C. § 11049(4); 40 C.F.R. § 355.61.

13. "Person" means any individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, or interstate body. Section 329(7) of EPCRA, 42 U.S.C. § 11049(7); 40 C.F.R. § 355.61.
14. "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment (including the abandonment or discarding of barrels, containers, and other closed receptacles) of any hazardous chemical, extremely hazardous chemical, or toxic chemical. Section 329(8) of EPCRA, 42 U.S.C. § 11049(8); 40 C.F.R. § 355.61.
15. Pursuant to Section 325(b) of EPCRA, 42 U.S.C. § 11045(b), and 40 C.F.R. Part 19, the EPA may assess a civil penalty for each violation of Sections 304(a), 304(c) and 312 of EPCRA, 42 U.S.C. §§ 11004(a), 11004(c) and 11022. Civil penalties under Section 325(b) of EPCRA, 42 U.S.C. § 11045(b), may be assessed by administrative order.

### CERCLA

16. Section 102(a) of CERCLA, 42 U.S.C. § 9602(a), required the Administrator of EPA to publish a list of substances designated as hazardous substances which, when released into the environment, may present substantial danger to public health or welfare or the environment, and to promulgate regulations establishing the quantity of any hazardous substance the release of which was required to be reported under Section 103(a) of CERCLA, 42 U.S.C. § 9603(a). The EPA has published and amended such a list, including the corresponding RQs for those substances, which is codified at 40 C.F.R. Part 302.
17. Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), and the regulations found at 40 C.F.R. § 302.6, require a person in charge of a facility or vessel to immediately notify the National Response Center (NRC), as soon as he or she has knowledge of a release of a hazardous substance from such facility or vessel in an amount equal to, or greater than the RQ.
18. "Facility" means "(A) any building, structure, installation, equipment, pipe or pipeline (including any pipe into a sewer or publicly owned treatment works), well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, or aircraft, or (B) any site or area where a hazardous substance has been deposited, stored, disposed of, or placed, or otherwise come to be located; but does not include any consumer product in consumer use or any vessel." Section 101(9) of CERCLA, 42 U.S.C. § 9603(9); 40 C.F.R. § 302.3.
19. "Person" means "an individual, firm, corporation, association, partnership, consortium, joint venture, commercial entity, United States Government, State, municipality, commission, political subdivision of a State, or any interstate body." Section 101(21) of CERCLA, 42 U.S.C. § 9603(21); 40 C.F.R. § 302.3.
20. "Release" means "any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment (including the abandonment or discarding of barrels, containers, and other closed receptacles containing any hazardous substance or pollutant or contaminant), but excludes (A) any release which results

in exposure to persons solely within a workplace, with respect to a claim which such persons may assert against the employer of such persons, (B) emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft, vessel, or pipeline pumping station engine, (C) release of source, byproduct, or special nuclear material from a nuclear incident, as those terms are defined in the Atomic Energy Act of 1954 [42 U.S.C. 2011 et seq.], if such release is subject to requirements with respect to financial protection established by the Nuclear Regulatory Commission under section 170 of such Act [42 U.S.C. 2210], or, for the purposes of section 9604 of this title or any other response action, any release of source byproduct, or special nuclear material from any processing site designated under section 7912(a)(1) or 7942(a) of this title, and (D) the normal application of fertilizer.” Section 101(22) of CERCLA, 42 U.S.C. § 9603(22); 40 C.F.R. § 302.3.

21. “Vessel” means “every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water.” Section 101(28) of CERCLA, 42 U.S.C. § 9603(28); 40 C.F.R. § 302.3.
22. Ammonia is a “hazardous substances” as that term is defined by Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), with an RQ of 100 pounds, as specified in 40 C.F.R. § 302.4.
23. Pursuant to Section 109 of CERCLA, 42 U.S.C. § 9609, and 40 C.F.R. Part 19, the EPA may assess a civil penalty for each violation of Section 103(a) of CERCLA, 42 U.S.C. § 9603(a). Each day a violation of Section 103 continues constitutes a separate violation. Civil penalties under Section 109 of CERCLA, 42 U.S.C. § 9609, may be assessed by Administrative Order.

#### **IV. FINDINGS OF FACTS**

24. On August 2, 2014, a release of ammonia above the RQ under EPCRA and CERCLA occurred at the Facility.
25. The August 2, 2014 release of ammonia resulted in the potential for exposure to persons beyond the site or sites on which the Facility is located.
26. Respondent failed to immediately notify the SERC, LEPC and NRC as soon as Respondent had knowledge of the release of ammonia in an amount equal to or greater than its RQ at Respondent’s Facility.
27. Respondent failed to provide a written follow-up emergency notification to the SERC and LEPC as soon as practicable after the release of ammonia in an amount equal to or greater than its RQ at Respondent’s Facility.
28. Respondent is required under 29 C.F.R. § 1910.1200(g) to prepare or have available an MSDS for hazardous chemicals under OSHA for ammonia and sulfuric acid.
29. At some time during calendar year(s) 2013 and 2014, ammonia was present at the Facility in an amount equal to or greater than 500 pounds.
30. At some time during calendar year(s) 2013 and 2014, sulfuric acid was present at the Facility in an amount equal to or greater than 500 pounds.

31. Respondent failed to submit a completed Emergency and Hazardous Chemical Inventory Form for ammonia to the SERC, LEPC and fire department with jurisdiction over the Facility for calendar year(s) 2013 and 2014 by March 1 of the following calendar year.
32. Respondent failed to submit a completed Emergency and Hazardous Chemical Inventory Form for sulfuric acid to the SERC, LEPC and fire department with jurisdiction over the Facility for calendar year(s) and 2013 and 2014 by March 1 of the following calendar year.

## **V. ALLEGED VIOLATIONS**

33. Respondent is a “person” and was the owner or operator and person in charge of a “facility”, as those terms are defined under EPCRA and CERCLA, located at 716 Whitfield Street, Fayetteville, North Carolina 28306 (Facility) during the relevant period described herein.
34. Respondent violated the notification requirements of Section 304(a) of EPCRA, 42 U.S.C. § 11004(a), and the applicable regulation, 40 C.F.R. Part 355, Subpart C, by failing to immediately notify the SERC and LEPC as soon as Respondent had knowledge of the August 2, 2014 release of ammonia in an amount equal to or greater than its RQ at Respondent’s Facility and is therefore subject to the assessment of penalties under Section 325 of EPCRA, 42 U.S.C. § 11045.
35. Respondent violated the notification requirements of Section 304(c) of EPCRA, 42 U.S.C. § 11004(c), and the applicable regulation, 40 C.F.R. Part 355, Subpart C, by failing to provide a written follow-up emergency notification to the SERC and LEPC as soon as practicable after the Respondent had knowledge of the August 2, 2014 release of ammonia in an amount equal to or greater than its RQ at the Respondent’s Facility and is therefore subject of the assessment of penalties under Section 325 of EPCRA, 42 U.S.C. § 11045.
36. Respondent violated the notification requirements of Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), and the applicable regulation, 40 C.F.R. § 302.6, by failing to immediately notify the NRC as soon as Respondent had knowledge of the August 2, 2014 release of ammonia in an amount equal to or greater than its RQ at Respondent’s Facility and is therefore subject to the assessment of penalties under Section 109 of the CERCLA, 42 U.S.C. § 9609.
37. Respondent violated the reporting requirements of Section 312 of EPCRA by failing to submit the required Emergency and Hazardous Chemical Inventory Form for ammonia for calendar year(s) 2013 and 2014 by July 1 of the following calendar year and is therefore subject to assessment of penalties under Section 325 of EPCRA, 42 U.S.C. § 11045.
38. Respondent violated the reporting requirements of Section 312 of EPCRA by failing to submit the required Emergency and Hazardous Chemical Inventory Form for sulfuric acid for calendar years(s) 2013 and 2014 by July 1 of the following calendar year and is therefore subject to the assessment of penalties under Section 325 of EPCRA, 42 U.S.C. § 11045.

## **VI. STIPULATIONS**

39. The issuance of this CAFO simultaneously commences and concludes this proceeding. 40 C.F.R. § 22.13(b).

40. For the purpose of this proceeding, as required by 40 C.F.R. § 22.18(b)(2), Respondent:

- a. admits that EPA has jurisdiction over the subject matter alleged in this CAFO;
- b. neither admits nor denies the factual allegations set forth in Section IV (Findings of Facts) of this CAFO;
- c. consents to the assessment of a civil penalty as stated below;
- d. consents to the conditions specified in this CAFO;
- e. waives any right to contest the allegations set forth in Section V (Alleged Violations) of this CAFO; and
- f. waives its rights to appeal the Final Order accompanying this CAFO.

41. For the purpose of this proceeding, Respondent:

- a. agrees that this CAFO states a claim upon which relief may be granted against Respondent;
- b. acknowledges that this CAFO constitutes an enforcement action for purposes of considering Respondent's compliance history in any subsequent enforcement actions;
- c. waives any rights it may possess at law or in equity to challenge the authority of EPA to bring a civil action in a United States District Court to compel compliance with the CAFO, and to seek an additional penalty for such noncompliance, and agrees that federal law shall govern in any such civil action
- d. by executing this CAFO, certifies to the best of its knowledge that Respondent is currently in compliance with all relevant requirements of EPCRA and CERCLA and their implementing regulations, and that all violations alleged herein, which are neither admitted nor denied, have been corrected;
- e. waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during any discussions with, or to be served with and reply to, any memorandum or communication addressed to EPA officials where the purpose of such discussion, memorandum, or communication is to persuade such official to accept and issue this CAFO; and
- f. agrees to comply with the terms of this CAFO.

42. In accordance with 40 C.F.R. § 22.5, the individuals named in the certificate of service are authorized to receive service related to this proceeding.

## **VII. TERMS OF PAYMENT**

43. Respondent consents to the payment of a civil penalty for the CERCLA violation, which was calculated in accordance with CERCLA, in the amount of **\$18,750.00**, which is to be paid within thirty (30) calendar days of the Effective Date of this CAFO.
44. Respondent consents to the payment of a civil penalty for the EPCRA violations, which was calculated in accordance with EPCRA, in the amount of **\$61,150**, which is to be paid within thirty (30) calendar days of the Effective Date of this CAFO.

#### **CERCLA PAYMENT INSTRUCTIONS**

If paying by check, the check shall be payable to: EPA Hazardous Substance Superfund, and the Facility name and docket number for this matter shall be referenced on the face of the check. If Respondent sends payment by the U.S. Postal Service, the payment shall be addressed to:

United States Environmental Protection Agency  
**Fines and Penalties**  
Cincinnati Finance Center  
P.O. Box 979076  
St. Louis, Missouri 63197-9000

If Respondent sends payment by non-U.S. Postal express mail delivery, the payment shall be sent to:

U.S. Environmental Protection Agency  
Government Lockbox 979076  
1005 Convention Plaza  
SL-MO-C2-GL  
St. Louis, Missouri 63101  
(314) 425-1819

If paying by EFT, Respondent shall transfer the payment to:

Federal Reserve Bank of New York  
ABA: 021030004  
Account Number: 68010727  
SWIFT address: FRNYUS33  
33 Liberty Street  
New York, New York 10045  
Field Tag 4200 of the Fedwire message should read:  
"D 68010727 Environmental Protection Agency"

If paying by ACH, Respondent shall remit payment to:

US Treasury REX / Cashlink ACH Receiver  
ABA: 051036706  
Account Number: 310006, Environmental Protection Agency  
CTX Format Transaction Code 22 – checking  
Physical location of US Treasury facility:  
5700 Rivertech Court



Riverdale, Maryland 20737  
Contact: John Schmid, (202) 874-7026  
REX (Remittance Express): 1-866-234-5681

\*Note: Foreign banks **must** use a United States Bank to send a wire transfer to the U.S. EPA.

## **EPCRA PAYMENT INSTRUCTIONS**

If paying by check, the check shall be payable to: Treasurer, United States of America, and the Facility name and docket number for this matter shall be referenced on the face of the check. If Respondent sends payment by the U.S. Postal Service, the payment shall be addressed to:

United States Environmental Protection Agency  
**Fines and Penalties**  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, Missouri 63197-9000

If Respondent sends payment by non-U.S. Postal express mail delivery, the payment shall be sent to:

U.S. Environmental Protection Agency  
Government Lockbox 979077  
1005 Convention Plaza  
SL-MO-C2-GL  
St. Louis, Missouri 63101  
(314) 425-1819

If paying by EFT, Respondent shall transfer the payment to:

Federal Reserve Bank of New York  
ABA: 021030004  
Account Number: 68010727  
SWIFT address: FRNYUS33  
33 Liberty Street  
New York, New York 10045  
Field Tag 4200 of the Fedwire message should read:  
"D 68010727 Environmental Protection Agency"

If paying by ACH, Respondent shall remit payment to:

US Treasury REX / Cashlink ACH Receiver  
ABA: 051036706  
Account Number: 310006, Environmental Protection Agency  
CTX Format Transaction Code 22 – checking  
Physical location of US Treasury facility:  
5700 Rivertech Court  
Riverdale, Maryland 20737  
Contact: John Schmid, (202) 874-7026

REX (Remittance Express): 1-866-234-5681

\*Note: Foreign banks **must** use a United States Bank to send a wire transfer to the U. S. EPA.

45. Respondent shall send proof of payment, within 24 hours of payment of the civil penalty, to:

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

and

b) Melissa Hardage  
Air Section 1  
Air Enforcement Branch  
Enforcement and Compliance Assurance Division  
U.S. EPA Region 4  
980 College Station Road  
Athens, Georgia 30605  
Hardage.Melissa@epa.gov

46. "Proof of payment" means, as applicable, a copy of the check, confirmation of credit card or debit card payment, confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with the Facility name and "Docket No. EPCRA-04-2020-0602(b)."

47. Pursuant to 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to remit the civil penalty as agreed to herein, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the costs of processing and handling the delinquent claim. Accordingly, EPA may require the Respondent to pay the following amounts on any amount overdue:

- a. Interest. Interest will begin to accrue on the civil penalty from the Effective Date of this CAFO. If the civil penalty is paid within 30 days, Interest is waived. However, if the civil penalty is not paid in full within 30 days of the Effective Date of this CAFO, Interest will continue to accrue on any unpaid portion until the unpaid portion of the civil penalty and accrued Interest is paid. Interest will be assessed at the rate of the United States Treasury tax and loan rate, as established by the Secretary of the Treasury, in accordance with 31 U.S.C. § 3717(a)(1), 31 C.F.R. § 901.9(b), and 40 C.F.R. § 13.11(a).
- b. Non-Payment Penalty. On any portion of a civil penalty more than ninety (90) calendar days past due, Respondent must pay a non-payment penalty of not more than six percent (6%) per annum, which will accrue from the date the penalty payment became due under Section VII and is not paid in full, as provided in 31 U.S.C. § 3717(e)(2) and 31 C.F.R. § 901.9(d). This non-payment penalty is in addition to charges which accrue or may

accrue under subparagraphs (a) and (c) and will be assessed monthly. 40 C.F.R. § 13.11(c).

- c. Monthly Handling Charge. Respondent must pay a late payment handling charge to cover the administrative costs of processing and handling the delinquent claim, based on either actual or average cost incurred. 31 C.F.R. § 901.9(c), and 40 C.F.R. § 13.11(b). Administrative costs will be assessed monthly throughout the period the debt is overdue except as provided by 40 C.F.R. § 13.12.

48. If Respondent fails to timely pay any portion of the penalty assessed under this CAFO under EPCRA and/or CERCLA, EPA may:

- a. refer the debt to a credit reporting agency or a collection agency, 40 C.F.R. §§ 13.13 and 13.14;
- b. collect the debt by administrative offset (i.e., the withholding of money payable by the United States to, or held by the United States for, a person to satisfy the debt the person owes the Government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, 40 C.F.R. Part 13, Subparts C and H;
- c. suspend or revoke Respondent's licenses or other privileges, or suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds, 40 C.F.R. § 13.17; and/or
- d. request that the Attorney General bring a civil action in the appropriate district court to recover the amount assessed, in addition to the amounts described above, pursuant to Section 325 of EPCRA, 42 U.S.C. § 11045(f)(1) and/or Section 109 of CERCLA, 42 U.S.C. § 9609(c).

49. Penalties paid pursuant to this CAFO shall not be deductible for purposes of federal taxes.

#### **VIII. EFFECT OF CAFO**

50. In accordance with 40 C.F.R. § 22.18(c), Respondent's full compliance with this CAFO shall only resolve Respondent's liability for federal civil penalties for the violations and facts specifically alleged above.

51. Full payment of the civil penalty, as provided in Section VII (Terms of Payment), shall not in any case affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. 40 C.F.R. § 22.18(c).

52. Nothing in this CAFO shall relieve Respondent of the duty to comply with all applicable provisions of EPCRA or CERCLA and other federal, state, or local laws or statutes, nor shall it restrict EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit, except as expressly provided herein.

53. Nothing herein shall be construed to limit the power of EPA to undertake any action against Respondent or any person in response to conditions that may present an imminent and substantial endangerment as provided under EPCRA and/or CERCLA.
54. The terms, conditions, and compliance requirements of this CAFO may not be modified or amended except upon the written agreement of both Parties, and approval of the Regional Judicial Officer.
55. The provisions of this CAFO shall apply to and be binding upon Respondent and its officers, directors, employees, agents, trustees, servants, authorized representatives, successors, and assigns.
56. Any change in the legal status of the Respondent, or change in ownership, partnership, corporate or legal status relating to the Facility, will not in any way alter Respondent's obligations and responsibilities under this CAFO.
57. By signing this Consent Agreement, Respondent acknowledges that this CAFO will be available to the public and agrees that this CAFO does not contain any confidential business information or personally identifiable information.
58. By signing this Consent Agreement, the Complainant and the undersigned representative of Respondent each certify that he or she is fully authorized to execute and enter into the terms and conditions of this CAFO and has the legal capacity to bind the party he or she represents to this CAFO.
59. By signing this Consent Agreement, both Parties agree that each party's obligations under this CAFO constitute sufficient consideration for the other party's obligations.
60. By signing this Consent Agreement, Respondent certifies that the information it has supplied concerning this matter was at the time of submission, and continues to be, true, accurate, and complete for each such submission, response, and statement. Respondent acknowledges that there are significant penalties for submitting false or misleading information, including the possibility of fines and imprisonment for knowing submission of such information, under 18 U.S.C. § 1001.
61. EPA also reserves the right to revoke this CAFO and settlement penalty if and to the extent that EPA finds, after signing this CAFO, that any information provided by Respondent was materially false or inaccurate at the time such information was provided to EPA. If such false or inaccurate material was provided, EPA reserves the right to assess and collect any and all civil penalties for any violation described herein. EPA shall give Respondent notice of its intent to revoke, which shall not be effective until received by Respondent in writing.
62. Unless specifically stated otherwise in this CAFO, each party shall bear its own attorney's fees, costs, and disbursements incurred in this proceeding.
63. It is the intent of the parties that the provisions of this CAFO are severable. If any provision or authority of this CAFO or the application of this CAFO to any party or circumstances is held by any judicial or administrative authority to be invalid or unenforceable, the application of such

provisions to other parties or circumstances and the remainder of the CAFO shall remain in force and shall not be affected thereby.

#### **IX. EFFECTIVE DATE**

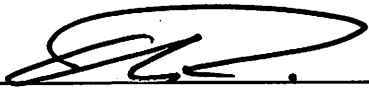
64. This CAFO shall become effective after execution of the Final Order by the Regional Judicial Officer, on the date of filing with the Hearing Clerk.

**[Remainder of Page Intentionally Left Blank**

**Complainant and Respondent will Each Sign on Separate Pages]**

The foregoing Consent Agreement In the Matter of Vanguard Culinary Group, Ltd. Docket No. EPCRA-04-2020-0602(b), is Hereby Stipulated, Agreed, and Approved for Entry.

FOR RESPONDENT:

  
\_\_\_\_\_  
Signature

12/9/19  
\_\_\_\_\_  
Date

Printed Name: Charles G. Manis

Title: President/CEO

Address: 716 Whitfield St. Fayetteville NC 28306

The foregoing Consent Agreement In the Matter of **Vanguard Culinary Group, Ltd. Docket No. EPCRA-04-2020-0602(b)**, is Hereby Stipulated, Agreed, and Approved for Entry.

FOR COMPLAINANT:

12/11/19  
DATE

Carol L. Kemker

Carol L. Kemker  
Director  
Enforcement and Compliance Assurance Division  
U.S. Environmental Protection Agency, Region 4

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

In the Matter of:

**Vanguard Culinary Group, Ltd.**

Respondent.

Docket No. EPCRA-04-2020-0602(b)


FINAL ORDER

The Regional Judicial Officer is authorized to ratify this Consent Agreement which memorializes a settlement between Complainant and Respondent. 40 C.F.R. §§ 22.4(b) and 22.18(b)(3). The foregoing Consent Agreement is, therefore, hereby approved, ratified and incorporated by reference into this Final Order in accordance with 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.

The Respondent is hereby ORDERED to comply with all of the terms of the foregoing Consent Agreement effective immediately upon filing of this Consent Agreement and Final Order with the Regional Hearing Clerk. This Final Order disposes of this matter pursuant to 40 C.F.R. §§ 22.18 and 22.31.

BEING AGREED, IT IS SO ORDERED this 12<sup>th</sup> day of December, 2019

Dec 12, 2019  
DATE

  
\_\_\_\_\_  
Robin B. Allen  
Regional Judicial Officer



**CERTIFICATE OF SERVICE**

I certify that the foregoing "Consent Agreement" and "Final Order," in the Matter of **Vanguard Culinary Group, Ltd. Docket No. EPCRA-04-2020-0602(b)**, were filed and copies of the same were mailed to the parties as indicated below.

Via United Parcel Service:

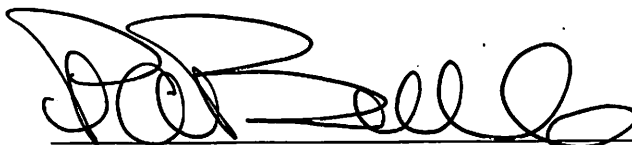
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Via EPA's internal email:

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12-13-19  
DATE



Patricia A. Bullock, Regional Hearing Clerk  
U.S. EPA Region 4  
61 Forsyth Street, S.W.  
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