



Re: Avanzados Químicos S.A.DE C.V.  
RCRA-06-2015-0903

5. For the purpose of these proceedings, Respondent admits the jurisdictional allegations herein; however, the Respondent neither admits nor denies the specific factual allegations and conclusions of law contained in this CAFO. This CAFO states a claim upon which relief may be granted.
6. The Respondent explicitly waives any right to contest the allegations and its right to appeal the proposed final order contained in this CAFO, and waives all defenses which have been raised or could have been raised to the claims set forth in the CAFO.
7. The CAFO resolves only those violations which are alleged herein.
8. The Respondent consents to the issuance of the CAFO hereinafter recited, consents to the assessment and payment of the stated civil penalty in the amount and by the method set out in this CAFO, and consents to the specific stated compliance order.

## II. JURISDICTION

9. This CAFO is issued by the EPA pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928, as amended by the Hazardous and Solid Waste Amendments of 1984 ("HSWA") and is simultaneously commenced and concluded through the issuance of this CAFO under 40 Code of Federal Regulations ("C.F.R.") §§ 22.13(b) and 22.18(b)(2) and (3).
10. Respondent agrees to undertake and complete all actions required by the terms and conditions of this CAFO. In any action by the EPA or the United States to enforce the terms of this CAFO, Respondent agrees not to contest the authority or jurisdiction of the EPA to issue or enforce this CAFO, and agrees not to contest the validity of this CAFO or its terms or conditions.

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III.  
FACTUAL ALLEGATIONS AND CONCLUSIONS OF LAW

11. Respondent acts as the importer for hazardous waste generated at maquiladoras in Mexico and disposed of in the United States of America and as such Avanzados must comply with the applicable requirements of 40 C.F.R. Part 262. 40 C.F.R. § 262.60(a).
12. Respondent is a “person” within the meaning of Section 1004(15) of RCRA, 42 U.S.C. § 6903(15) and 40 C.F.R. § 260.10.
13. Respondent’s Facility is a “Transfer Facility” within the meaning of 40 C.F.R. § 260.10.
14. Respondent must also comply with the Transfer Facility requirements at 40 C.F.R. part 263.
15. During the period of January 2014 through April 2014, EPA conducted a RCRA investigation and record review, of Respondent’s performance as an importer of record, a generator, and the owner of a transfer facility, which was followed by the issuance of a RCRA 3007 Information Request to Respondent and a review of Respondent’s Responses (“Investigation”) to further determine Respondent’s compliance with RCRA and the regulations promulgated thereunder.
16. During the Investigation, EPA discovered that Respondent, at a minimum, imported the following waste:
  - i. D001, ignitable hazardous waste;
  - ii. D002, corrosive hazardous waste;
  - iii. D003, reactive hazardous waste;
  - iv. Hazardous wastes that exhibit the toxicity characteristic for arsenic, barium, cadmium, chromium, lead, mercury, selenium, silver, benzene,

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chlorobenzene, cresol, methyl ethyl ketone, and vinyl chloride, respectively with the hazardous waste codes, D004, D005, D006, D007, D008, D009, D010, D011, D018, D021, D026, D035, and D043;

- v. At least five (5) listed hazardous waste streams described as spent non-halogenated solvent and spent halogenated with one or all of the following waste codes: F001, F002, F003, F004, and F005; and
- vi. An additional listed hazardous waste stream, described as wastewater sludges from electroplating operations, with the waste code F006 was imported prior to 2012.

17. The waste streams identified in Paragraph 16 are hazardous waste as defined in 40 C.F.R.

§§ 261.21, 261.22, 261.23, 261.24 and 261.31.

18. From the Investigation, EPA determined that during the period of 2012 through 2014,

Respondent imported the hazardous waste streams identified in Paragraph 16 and in quantities that exceeded the threshold amount of 1,000 kilograms of hazardous waste per month, which qualifies Respondent for the large quantity generator status as established under 40 C.F.R. § 262.

19. Respondent is a “generator” of “hazardous wastes” as those terms are defined in 40 C.F.R.

§ 260.10.

20. As a generator of hazardous waste, Respondent is subject to Sections 3002 and 3010 of RCRA, 42 U.S.C. §§ 6922 and 6930, and the regulations set forth at 40 C.F.R Part 262 and/or 270.

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**Claim i. Notification Requirements**

21. The allegations in Paragraphs 1-20 are realleged and incorporated herein by reference.
22. Within the meaning of 40 C.F.R. §§ 262.10(e) and 262.60(a) Respondent is an importer of hazardous waste into the United States, and as such, must comply with the standards applicable to generators.
23. Pursuant to Section 3010(a) of RCRA, 42 U.S.C. § 6930(a), any person generating a characteristic or listed hazardous waste shall file with the Administrator or authorized State a notification stating the location and general description of such activity and the identified or listed hazardous wastes handled by such person.
24. At the time of the Investigation, Respondent had filed a RCRA 3010 EPA Notification Form 8700-12 ("Notification") indicating in Section 10.A.1 that it was and is an importer. However, Respondent did not indicate that it has been and is a generator, its generator size and status, neither did Respondent include all of the relevant waste codes (Section 11.A) for its federally regulated hazardous waste nor did Respondent include any of the waste codes (Section 11.B) for the State regulated hazardous waste.
25. Respondent did not file a proper initial and/or subsequent RCRA 3010 Notification of hazardous waste activities with the Administrator or with the authorized State, in violation of Section 3010(a) of RCRA, 42 U.S.C. § 6930(a).

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**Claim ii. Failure to file Biennial Reports**

26. The allegations in Paragraphs 1-25 are realleged and incorporated herein by reference.
27. Pursuant to 40 C.F.R. § 262.41 a generator who ships any hazardous waste off-site for treatment, storage and/or disposal must prepare and submit a biennial Report to EPA's Regional Administrator, and to the New Mexico Environment Department, by March 1 of each even-numbered year as is required by 40 C.F.R. § 262.41.
28. At all times relevant to this CAFO, the EPA and/or the New Mexico Environment Department did not receive the requisite number of biennial Reports that Respondent was required to file in violation of 40 C.F.R. § 262.41.

**IV.**  
**COMPLIANCE ORDER**

29. Pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), Respondent is hereby ordered to take the following actions, and within thirty (30) calendar days of the effective date of the settlement agreement, Respondent shall provide in writing the following:
- A. Respondent shall certify that it has reviewed all environmental requirements (Federal and State) that are applicable to Avanzados as an importer and generator of hazardous waste and has developed and implemented a RCRA compliance plan designed to ensure that Respondent is meeting the regulations applicable to a transfer facility, an importer of record, and the generator standards, including its manifest and reporting requirements;
  - B. Respondent shall certify that it has accurately complied with its RCRA Section 3010 Notification; and

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C. Respondent shall provide, with its certification, a copy of Respondent's RCRA Compliance Plan as described in subparagraph A above.

30. In all instances in which this CAFO requires written submission to EPA, the submittal made by Respondent shall be signed by an owner or officer of Avanzados and shall include the following certification:

"I certify under the penalty of law that this document and all its attachments were prepared by me or under my direct supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Copies of all documents required by this CAFO shall be sent to the following:

U.S. Environmental Protection Agency  
Compliance Assurance and Enforcement Division  
Hazardous Waste Enforcement Branch  
Compliance Enforcement Section (6EN-HC)  
1445 Ross Avenue  
Dallas, TX 75202-2733  
Attn: Dale Thrush

## V.

### TERMS OF SETTLEMENT

#### **i. Penalty Provisions**

31. Pursuant to the authority granted in Section 3008 of RCRA, 42 U.S.C. § 6928, and upon consideration of the entire record herein, including the above referenced Factual Allegation and Conclusions of Law, which are hereby adopted and made a part hereof, upon the seriousness of the alleged violations, and Respondent's good faith efforts to comply with the

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applicable regulations, it is ordered that Respondent be assessed a civil penalty of Thirty-  
Three Thousand Nine Hundred and Ninety Dollar (\$33,990).

32. The penalty shall be paid within thirty (30) calendar days of the effective date of this CAFO  
and made payable to the Treasurer United States.

33. The following are Respondent's options for transmitting the penalties:

Regular Mail, U.S. Postal Mail (including certified mail) or U.S. Postal Service Express

Mail, the check should be remitted to:

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

Overnight Mail (non-U.S. Postal Service), the check should be remitted to:

U.S. Bank  
Government Lockbox 979077  
US EPA Fines and Penalties  
1005 Convention Plaza  
SL-MO-C2-G1  
St. Louis, MO 63101  
314-418-1028

Wire Transfer:

Federal Reserve Bank of New York  
ABA: 021030004  
Account No. 68010727  
SWIFT address = FRNYUS33  
33 Liberty Street  
New York, NY 10045



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The case name and docket number (In the Matter of Avanzados Quimicos S.A.DE C.V.,  
Docket No. RCRA-06-2015-0903) shall be clearly documented on or within your chosen  
method of payment to ensure proper credit.

34. The Respondent shall send a simultaneous notice of such payment to the following:

Lorena S. Vaughn  
Regional Hearing Clerk (6RC-D)  
U.S. EPA, Region 6  
1445 Ross Avenue  
Dallas, Texas 75202-2733

Mark Potts, Associate Director  
Hazardous Waste Enforcement Branch (6EN-H)  
Compliance Assurance and Enforcement Division  
U.S. EPA, Region 6  
1445 Ross Avenue  
Dallas, Texas 75202-2733  
Attention: Dale Thrush

Your adherence to this request will ensure proper credit is given when penalties are received  
by EPA.

35. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, unless otherwise prohibited by law,  
EPA will assess interest and late payment penalties on outstanding debts owed to the United  
States and a charge to cover the cost of process and handling a delinquent claim. Interest on  
the civil penalty assessed in this CAFO will begin to accrue on the effective date of the  
CAFO and will be recovered by EPA on any amount of the civil penalty that is not paid  
within thirty (30) calendar days of the civil penalty's due date and 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).  
Moreover, the costs of the Agency's administrative handling overdue debts will be charged

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and assessed monthly throughout the period the debt is overdue. 40 C.F.R. § 13.11(b). EPA will also assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) day period the penalty remains unpaid. In addition, a penalty charge of up to six percent per year will be assessed monthly on any portion of the debt which remains delinquent more than ninety (90) days. 40 C.F.R. § 13.11(b). Should a penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d). Other penalties for failure to make a payment may also apply.

**ii. Cost**

36. Each party shall bear its own costs and attorney's fees. Furthermore, Respondent specifically waives its right to seek reimbursement of its costs and attorney's fees under the Equal Access to Justice Act (5 U.S.C. § 504), as amended by the Small Business Regulatory Enforcement Fairness Act (P.L. 04-121), and any regulations promulgated pursuant to those Acts.

**iii. Termination and Satisfaction**

37. When the Respondent believes that it has complied all the requirements of this CAFO, including compliance with the Compliance Order and the payment of the civil penalty, Respondent shall so certify in writing and in accordance with the certification language set forth in Section IV, (Compliance Order), Paragraph 30. Unless the EPA, Region 6 objects in writing with specific

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reasons within sixty (60) days of EPA's receipt of Respondent's certification, then this CAFO is terminated on the basis of Respondent's certification.

**iv. Effective Date of Settlement**

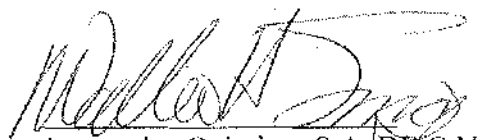
38. This CAFO shall become effective upon filing with the Regional Hearing Clerk.

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**THE UNDERSIGNED PARTIES CONSENT TO THE ENTRY OF THIS CONSENT  
AGREEMENT AND FINAL ORDER:**

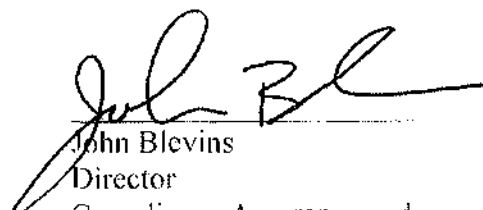
FOR THE RESPONDENT:

Date: 11/13/14

  
Avanzados Químicos S.A. DE C.V.  
WALTER H. ENDEL  
PRESIDENT

FOR THE COMPLAINANT:

Date: 11.19.14

  
John Blevins  
Director  
Compliance Assurance and  
Enforcement Division

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FINAL ORDER

Pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 CFR Part 22, the foregoing CAFO is hereby ratified. This Final Order 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. This Final Order shall resolve only those causes of action alleged herein. Nothing in this Final Order shall be construed to waive, extinguish or otherwise affect Respondent's (or its officers, agents, servants, employees, successors, or assigns) obligation to comply with all applicable federal, state, and local statutes and regulations, including the regulations that were the subject of this action. The Respondent is ordered to comply with the terms of settlement and the civil penalty payment instructions as set forth in the CAFO. Pursuant to 40 CFR § 22.31(b) this Final Order shall become effective upon filing with the Regional Hearing Clerk.

Date: 11/20/14

  
\_\_\_\_\_  
Thomas Rucki  
Regional Judicial Officer

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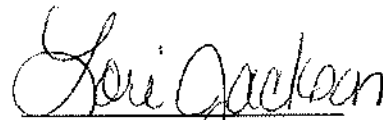
**CERTIFICATE OF SERVICE**

I hereby certify that on the 20 day of November 2014, the original of the foregoing Consent Agreement and Final Order was hand delivered to the Regional Hearing Clerk, U.S. EPA - Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, and that a true and correct copy of the CAFO was sent to the following by the method identified below:

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED** 7014 D150 0000245333 75

Walter H. Singer  
13259 Pierce Road,  
Saratoga, California 95070.

Copy to:  
Krista Harsono  
1210 Elko Drive  
Sunnyvale, CA 94089

  
Ms. Lori Jackson  
Paralegal