

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
Region 6
Dallas, Texas**

**REGIONAL HEARING CLERK
EPA REGION 6**

IN THE MATTER OF:

Verdant Specialty Solutions US, LLC
Houston, TX 77002

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Docket No.: TSCA-06-2024-6168

NOTICE OF DETERMINATION

1. Pursuant to the “Interim Approach to Applying the Audit Policy to New Owners”, 73 Fed. Reg. 44991 (Aug. 1, 2008), (New Owner Audit Policy) the U.S. Environmental Protection Agency (EPA or Agency) offers tailored incentives and additional penalty mitigation to new owners that want to make a “clean start” at newly acquired facilities by addressing noncompliance that began before the acquisition. The New Owner Audit Policy modifies certain conditions of EPA’s April 11, 2000 “Incentives for Self- Policing: Discovery, Disclosure, Correction and Prevention of Violations,” 65 Fed. Reg. 19618 (Audit Policy). The EPA hereby issues this Notice of Determination (NOD) regarding violations voluntarily disclosed to EPA by Verdant Specialty Solutions US, LLC (Verdant) at facilities at four sites previously owned by Baze Chemical, LLC (Baze) and acquired by Verdant on October 21, 2021:
 - a. Palestine Site, 2187 E FM 323, Palestine, TX 758011
 - b. Liberty Site, 1502 Fort Worth St., Liberty, TX 77575
 - c. New Iberia Site, 718 Hangar Drive, New Iberia, Louisiana 70560
 - d. Odessa Site, 3801 & 3803 Mankins Avenue, Odessa, TX 79764

Preliminary Statement

2. On October 21, 2021, Verdant acquired Baze Chemical, LLC, including the four facilities identified above. Verdant contacted EPA on May 12, 2022, to request an agreement to conduct a comprehensive audit of compliance with the Toxic Substances Control Act (TSCA) by its newly acquired unit. On August 11, 2022, the EPA approved Verdant’s request; that agreement allowed Verdant until December 31, 2022, to complete its audit. At Verdant’s request, that deadline was extended to March 31, 2023. On March 31, 2023, Verdant submitted two versions of the audit report, one containing confidential business information (CBI) and one sanitized.
3. As an incentive for regulated entities disclosing any violations resulting from an environmental

audit or a CMS, EPA may eliminate or substantially reduce the gravity-based component of civil penalties to be assessed for violations that are voluntarily disclosed in compliance with the conditions specified in the Audit Policy. For new owners who meet the conditions of the New Owner Audit Policy, EPA may eliminate or substantially reduce the economic benefit component of civil penalties to be assessed for self-disclosed violations. Consistent with this policy and with the audit agreement, Verdant conducted a voluntary environmental audit of the acquired facilities listed above. Verdant identified, timely corrected, and disclosed to EPA a number of potential violations uncovered by the audit.

Findings of Fact

4. Verdant submitted an Audit Report to the EPA on March 31, 2023. Verdant produced two versions of the Report, one containing CBI using the EPA's Central Data Exchange platform and one that had been edited to contain no CBI.
5. Under TSCA, 15 U.S.C. § 2601 *et seq.*, failures to comply with statutory and regulatory requirements are made unlawful in Section 16, 15 U.S.C. § 2615. Each of the failures described in the Audit Report are ultimately unlawful under Section 16 but are organized below based on the statutory section containing either the requirement or authority for promulgation of the regulation at issue.
6. Verdant reported the following violations and remedial actions:

TSCA Section 4: The audit found a single failure to submit either an intent to test or application for exemption from testing for a chemical substance subject to a test rule issued under Section 4(a)(1)(B) of TSCA, 15 U.S.C. § 2603(a)(1)(B). Specifically, Baze failed to comply with the *Chemical testing requirements for second group of high production volume chemicals (HPV2)*, 40 C.F.R. § 799.5087 (January 7, 2011), with respect to 1,3,5-Triazine-1,3,5(2H,4H,6H)-triethanol (CASRN 4719-04-4). A late application for exemption was submitted to the EPA.

TSCA Section 5: The audit found 30 violations of the requirement to submit a pre-manufacture notice to the EPA prior to manufacturing any new chemical substance in Section 5(a)(1)(B)(i), 15 U.S.C. § 2604(a)(1)(B)(i). The identities of these substances were provided in the confidential audit report. Verdant ceased manufacture of these chemical substances for non-exempt commercial purposes.

In addition, the audit found one violation of the requirement to submit a Significant New Use Notice (SNUN) as specified under the provisions of Section 5(a)(1)(B), 15 U.S.C. § 2604(a)(1)(B), prior to distributing a substance identified in 40 C.F.R. § 721 subpart E in commerce—a requirement given in 40 C.F.R. § 721.5(a)(2). In lieu of submitting that notice, Verdant corrected a defect in its satisfaction of the terms of an exception from the SNUN submission requirement set forth in 40 C.F.R. §§ 721.5(a)(2)(i)-(iii).

TSCA Section 8: The audit found violations of two reporting obligations promulgated under TSCA Section 8, 15 U.S.C. § 2607. Verdant found violations of the Chemical Data Reporting Rule for the 2020 reporting period for three of the acquired facilities (Liberty, 16 chemicals; Odessa, 8 chemicals; Palestine, 1 chemical).¹ *The Chemical Data Reporting Rule*—promulgated under TSCA Section 8(a), 15 U.S.C. § 2607(a), and codified in 40 C.F.R. § 711—requires submission of production data for subject chemicals every 4 years. Verdant provided corrected submissions for each site.

The audit found violations of the *TSCA Inventory Notification (Active-Inactive) Requirements Rule*—promulgated under TSCA Section 8(b), 15 U.S.C. § 2607(b); codified in 40 C.F.R. § 710—which requires any person intending to manufacture or process an “inactive” chemical substance to submit notice to the EPA. The audit found that Baze had manufactured two inactive chemical substances at the Liberty facility and one inactive chemical substance at the Odessa facility without submitting the necessary notice.² Verdant submitted a corrective Form B (the required notice) for each substance.

TSCA Section 12: The audit found two instances of violations of the requirement to notify EPA of exports of certain chemical substances under TSCA Section 12(b), 15 U.S.C. § 2611(b). The rules promulgated under Section 12(b) in 40 C.F.R. Section 707, Subpart D, require notice per destination company. The audit found that Baze had failed to notify of exports of a chemical substance (CASRN# 1459738-70-5) to two foreign countries. Verdant filed corrective notices for these exports.

TSCA Section 13: The audit found violations of the requirements under 19 C.F.R. § 12.118 *et seq.*, a rule promulgated by the U.S. Treasury Department (Customs, now under the Department of Homeland Security) under the authority of TSCA Section 13, 15 U.S.C. § 2612, to provide to file a statement certifying compliance with TSCA to Customs during import of subject chemical substances related to two chemical substances imported to the Palestine and Liberty sites. Verdant submitted the identity of these substances in the confidential audit report. The EPA shares enforcement authority for these provisions as described in 40 C.F.R. Section 707, Subpart B. Verdant has directed its import broker to update its practices with respect to these substances.

7. Based on information provided by Verdant for the disclosures identified above, the EPA has determined that Verdant has complied with the terms of the Audit agreement and met each of the following conditions set forth in the New Owner Audit Policy:

- a. Verdant has certified that the violations were discovered as part of an audit of the listed

¹ The following chemicals, by CASRN#, were identified for each site. Liberty: 61791-39-7; 68153-60-6; 61790-69-0; 68953-6-6; 4292-10-8; 22042-96-2; 68131-71-5; 68424-85-1; 100765-57-9; 68910-32-7; 4719-04-4; 68131-72-6; 7632-50-0; 459738-70-5; 1120-16-7; 68439-70-3. Palestine: 61791-39-7; 68953-36-6; 68910-32-7; 68002-61-9; 68584-24-7; 68141-08-2; 61791-55-7; 68037-96-7. Odessa: 68910-32-7.

² The following chemical substances, by CASRN#, were identified for each site. Liberty: 68910-32-7; 68603-73-6. Odessa: 68603-73-6.

facilities.

- b. Verdant has certified that the violations were identified voluntarily, not through a monitoring, sampling, or auditing procedure required by statute, regulation, permit, judicial order, administrative order, consent decree or consent agreement.
 - c. Verdant promptly disclosed and submitted the violations to EPA in writing.
 - d. Verdant has certified that the violations were identified and disclosed prior to the commencement of a federal, state, or local agency inspection, investigation, or information request, notice of a citizen suit, legal complaint by a third party, or imminent discovery by a regulatory agency.
 - e. Verdant has certified that it has taken the appropriate steps to correct and remedy the disclosed violations.
 - f. Verdant has certified to EPA that it has taken steps to prevent a recurrence of the violations.
 - g. Verdant has certified that the violations at issue have not resulted in serious actual harm to human health or the environment, and that the violations have not presented an imminent and substantial endangerment to public health or the environment. Furthermore, Verdant has stated the violations at issue do not violate the specific terms of any judicial order, administrative order, consent decree or consent agreement.
 - h. Verdant has cooperated with EPA and provided the information necessary for the Agency to determine the applicability of the New Owner Audit Policy to its disclosure.
8. Verdant stated it meets the definition of a "New Owner," for purposes of receiving the penalty mitigation incentives provided by the New Owner Audit Policy. Specifically,
- a. Prior to the transaction, Verdant was not responsible for environmental compliance at the facilities subject to the disclosure, did not cause the violations being disclosed, and could not have prevented their occurrence;
 - b. The violations subject to the disclosure originated with the prior owner; and
 - c. Prior to the transaction, neither Verdant nor the prior owner of the facility had the largest ownership share of the other entity, and they did not have a common corporate parent.

Determination

9. Based on the review of information and documentation received and in reliance on the Verdant

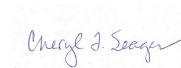
certifications, EPA has determined:

- a. Verdant has met all of the conditions of the New Owner Audit Policy and is eligible for a waiver of the total gravity-based civil penalty for the disclosed violations;
- b. Verdant accrued no significant economic benefit of noncompliance as a result of the violations described herein; and
- c. That this NOD resolves Verdant's civil penalty liability for the violations described herein with no assessment of a civil penalty.

Reservation of Rights

10. If, and to the extent that, any information or statement provided by Verdant upon which this NOD is based was materially false or inaccurate at the time such information or statement was provided to EPA, EPA reserves the right to revoke this NOD and, thereby, render such NOD null and void. Such revocation shall be in writing and shall become effective upon receipt by Verdant.
11. This NOD applies only to EPA's mitigation of the civil monetary penalties for the violations disclosed. If, and to the extent that, any information or statement provided by Verdant upon which any civil penalty mitigation granted herein for such violations was based was materially false or inaccurate at the time such information or statement was provided to EPA, EPA reserves the right to assess and collect any and all civil penalties for any violation described herein. Such assessment and collection or the exercise of this reservation shall be in writing and shall become effective upon receipt by Verdant.
12. Nothing herein shall be construed to limit the authority of EPA and/or the United States to undertake action against any person, including Verdant, in response to any condition which EPA or the United States determines may be necessary to protect public health, welfare or the environment. Furthermore, issuance of this NOD does not constitute a waiver by EPA and/or the United States of its right to bring an enforcement action, either civil or criminal, against Verdant for any other violation of any federal or state statute, regulation, or permit.
13. In issuing this NOD, EPA seeks to promote self-auditing and full compliance by Verdant with all environmental requirements and to continue the internal procedures necessary to prevent recurrences of violations of environmental requirements.

Date: June 3, 2024



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Cheryl T. Seager,
Director
Enforcement and
Compliance Assurance Division
U.S. EPA, Region 6