

removed 6-16-92
D-36

1 DANIEL E. LUNGREN, Attorney General
of the State of California
2 THEODORA BERGER,
Assistant Attorney General
3 CRAIG C. THOMPSON
GAIL RUDERMAN FEUER
4 Deputy Attorneys General
300 Spring S. Street, 11 North Tower
5 Los Angeles, California 90013
Telephone: (213) 897-2639
6 Attorneys for Plaintiffs

7 SUPERIOR COURT OF THE STATE OF CALIFORNIA
8 COUNTY OF LOS ANGELES

9 PEOPLE OF THE STATE OF CALIFORNIA, ex rel.) No. BC017081
John K. Van De Kamp, Attorney General)
10 of the State of California)
11 Plaintiffs,) CONSENT
12) JUDGMENT
13 Amvac Corporation, Bio-Strip, Inc.)
14 Defendant.)
15)

16 1. Introduction

17 1.0. On December 13, 1990, the People of the State of
18 California, ex rel. John K. Van de Kamp, ("People") filed a
19 Complaint for Civil Penalties, Injunctive and Declaratory Relief
20 ("Complaint") in Los Angeles County Superior Court, Case No. BC
21 17081, against Amvac Chemical Corporation and Bio-Strip, Inc.
22 ("Bio-Strip"), as defendants (hereinafter referred to as "the
23 Action"). People's Complaint alleges that Amvac Chemical
24 Corporation violated provisions of the Safe Drinking Water and
25 Toxic Enforcement Act of 1986, Health and Safety Code sections
26 25249.5 et seq. ("Proposition 65"), and Business and Professions
27 Code sections 17200 et seq. ("Unfair Competition Act"), by

1 knowingly exposing persons to chemicals known to the State of
2 California to cause cancer, without first providing a clear and
3 reasonable warning to such individuals.

4 1.1 In response to the Complaint, Amvac Chemical
5 Corporation filed an Answer, denying the substantive allegations
6 contained in the Complaint. After filing the action, People
7 learned that Bio-Strip did not employ more than ten persons and,
8 on that basis, dismissed Bio-Strip as a defendant in the action.

9 1.2 Amvac Chemical Corporation ("Amvac") is a corporation
10 that employs more than ten persons and manufactures and
11 distributes products for sale within the State of California.
12 Amvac manufactures, distributes and/or sells certain pesticide
13 products containing DDVP (also known as "Dichlorvos" and by the
14 chemical name 2,2 Dichlorovinyl dimethyl phosphate), a chemical
15 which the State of California placed on its list of chemicals
16 "known to cause cancer" pursuant to Health and Safety Code
17 section 25249.9 on January 1, 1989. These products include the
18 Bio-Strip Pest Strip (EPA Registration Number 5481-348-61292),
19 Bio-Strip Pest Strip Industrial Strip (EPA Registration Number
20 5481-344-61292), Amvac Insect Strip (EPA Registration Number
21 5481-344), the Loveland Pest Strip (EPA Registration Number 5481-
22 338-36208), the ALCO Insect Strip (EPA Registration Number 5481-
23 338), ALCO Pest Strip (EPA Registration Number 5481-348), ALCO
24 Bug Spray (EPA Registration Number 5481-240), ALCO DDVP 1 Spray
25 (EPA Registration Number 5481-41), ALCO Fly Fighter Liquid
26 Concentrate (EPA Registration Number 5481-73), and DDVP Technical

27 ///

1 Grade (EPA Registration Number 5481-96) (hereinafter collectively
2 called "Covered Products").

3 1.3. For purposes of this Consent Judgment the parties
4 stipulate that this Court has jurisdiction over the allegations
5 of violations contained in the Complaint and personal
6 jurisdiction over Amvac as to the acts alleged in the Complaint,
7 that venue is proper in the County of Los Angeles, and that this
8 Court has jurisdiction to enter this Consent Judgment as a
9 resolution of the allegations contained in the Complaint.

10 1.4. The parties enter into this Consent Judgment pursuant
11 to a settlement of disputed claims between the parties for the
12 purpose of avoiding prolonged litigation and to insure that the
13 requirements of Proposition 65 are expeditiously carried out. By
14 execution of this Consent Judgment, Amvac does not admit any
15 violations of Proposition 65, the Unfair Competition Act, or any
16 related statutes. Nothing in this Consent Judgment shall be
17 construed as an admission by Amvac of any fact, issue of law or
18 violation of law, nor shall compliance with the Consent Judgment
19 constitute or be construed as an admission by Amvac of any fact,
20 issue of law, or violation of law.

21 2. Settlement Payment

22 Amvac shall pay to the People upon the terms and conditions
23 set forth herein, the following:

24 2.0. Amvac shall pay a civil penalty of \$30,000 to the
25 Attorney General pursuant to Health & Safety Code sections
26 25249.7(b) and 25192. In addition, Amvac shall pay \$70,000 to
27 the Attorney General as reimbursement of the Attorney General's

1 costs and attorneys' fees incurred in the prosecution of the
2 action.

3 2.1 Amvac shall make the payments due under subparagraph
4 2.0 in the following installments: \$12,000 within seven (7) days
5 from entry of the Consent Judgment by the court; \$16,000 on July
6 5, 1992; \$16,000 on September 5, 1992; \$16,000 on November 5,
7 1992; \$16,000 on January 5, 1993; \$16,000 on March 5, 1993; and
8 \$8,000 on May 5, 1993. Amvac shall pay as a civil penalty an
9 additional \$2500 for any payment received later than seven days
10 after the date due under this Judgment. The first \$70,000
11 received under this Judgment shall be used for the reimbursement
12 of the Attorney General's costs and attorneys' fees incurred in
13 the prosecution of the action.

14 2.2 Payments shall be made to the Attorney General of the
15 State of California, 300 S. Spring Street, Los Angeles, CA 90013.
16 The payment shall note that the payment is made in connection
17 with a settlement of the action and shall be sent to the
18 attention of Deputy Attorney General Gail Ruderman Feuer.

19 2.3 Immediately upon entry of this Consent Judgment, Amvac
20 shall permanently and irrevocably relinquish 60 pounds per day of
21 Emission Reduction Credits ("ERCs") that it currently possesses,
22 as evidenced in the certificate attached as Exhibit "1". Amvac
23 shall accomplish this by transferring and assigning all of its
24 rights and interests in such 60 ERCs to the Attorney General of
25 the State of California and surrendering to the Attorney General
26 of the State of California the original certificates for the 60
27 ERCs transferred under this Consent Judgment. Amvac shall

1 further inform the South Coast Air Quality Management District
2 ("SCAQMD") by letter, in a form approved by the Office of the
3 Attorney General, that Amvac is irrevocably transferring and
4 assigning all of its rights and interests in the 60 ERCs to the
5 Attorney General of the State of California, and that it is
6 waiving with prejudice any right or interest that it has in such
7 60 ERCs. Amvac represents its belief that a fair market value
8 for these credits is \$150,000.

9 3. Entry of Consent Judgment

10 3.0. The parties hereby request that the court promptly
11 enter this Consent Judgment. Provided the Court enters the
12 Consent Judgment, Amvac and People waive their respective rights
13 to a hearing or trial on the allegations of the Complaint.

14 4. Matters Covered by this Consent Judgment

15 4.0. This Consent Judgment constitutes a full and final
16 settlement as to Amvac with respect to all claims, violations,
17 actions, damages, costs, penalties or causes of action under
18 Section 25249.6 of Proposition 65 and the Unfair Competition Act,
19 up to and including the date of entry of this Consent Judgment,
20 arising from the Covered Products manufactured, distributed,
21 transferred and/or sold by Amvac, as alleged by the People.

22 5. Additional Enforcement Actions; Continuing Obligations

23 The People do not waive any right to take further
24 enforcement actions on any new or additional violations not
25 covered by this Consent Judgment.

26 //

27

1 6. Enforcement of Judgment

2 6.0. The parties may, by noticed motion or order to show
3 cause before the Superior Court of Los Angeles County, giving the
4 notice required by law, enforce the terms and conditions
5 contained herein. In any action brought by People to enforce
6 this Consent Judgment, People may seek whatever fines, costs,
7 penalties or remedies as provided by law for violation of the
8 Consent Judgment. Any violations of the terms of this Consent
9 Judgment that also violate Proposition 65 or the Unfair
10 Competition Act or any other laws may subject Amvac to civil
11 penalties under those statutes, to be sought in a separate civil
12 action.

13 7. Modification of Judgment

14 7.0. This Consent Judgment may be modified upon written
15 approval of the parties and upon entry of a modified Consent
16 Judgment by the Court thereon, or upon motion of any party as
17 provided by law and upon entry of a modified Consent Judgment by
18 the Court.

19 8. Proposition 65 Compliance

20 8.0. The Covered Products are registered with the United
21 States Environmental Protection Agency ("EPA") pursuant to the
22 Federal Insecticide, Fungicide and Rodenticide Act ("FIFRA"),
23 under which EPA approves labels and labeling for those products.
24 The Covered Products are also registered with the California
25 Department of Pesticides Regulation pursuant to the California
26 Economic Poisons Act. Nothing in this Consent Judgment shall be
27 construed to mean that Proposition 65 or its implementing

1 regulations require that warnings for FIFRA-registered products
2 be provided through product labeling or otherwise to require
3 Amvac to take any action contrary to FIFRA or the California
4 Economic Poisons Act.

5 8.1. Within 30 days of entry of this Consent Judgment, all
6 Covered Products to be sold in California must satisfy either of
7 the following requirements:

8 (a) A warning shall be prominently placed on the
9 Covered Products, which warning shall meet the requirements of
10 Title 22 of the California Code of Regulations ("CCR"), sections
11 12601(b)(1)(A) and 12601(b)(3) or any successor or amended
12 regulations; or

13 (b) A warning shall be prominently placed on shelf
14 talkers or on display cases that are provided to
15 retailers/sellers of the Covered Products, which warnings are in
16 compliance with 22 CCR sections 12601(b)(1)(B) and 12601(b)(3),
17 or any successor or amended regulations.

18 8.2 Warning Language

19 8.2.0 Warnings required by this Consent Judgment shall
20 state as follows: "WARNING: Using this product will expose you to
21 a chemical known to the state of California to cause cancer";
22 provided, however, that until September 1, 1992, Bio-Strip may
23 use its current inventory of Bio-Strip Pest Strip display cases
24 on which the following warning has been printed on the front:
25 "WARNING: This product contains a chemical known to the State of
26 California to cause cancer." If the State adopts any regulation
27 that would render the language required by this paragraph not in

1 compliance with Proposition 65, Amvac shall comply with the terms
2 of the new regulation.

3 8.3 If Amvac elects to provide warnings through the
4 provision of shelf talkers or display cases pursuant to paragraph
5 8.1(b) of this Consent Judgment, Amvac shall take the following
6 steps to insure that warnings are provided to consumers who
7 purchase Covered Products in California.

8 RETAIL PRODUCTS

9 8.3.1 ALCO DDVP Products

10 8.3.1.1 Amvac shall provide a copy of the "Retail
11 Product Proposition 65 Warning Letter," a copy of which is
12 attached as Exhibit 2, to all current or future retailers,
13 distributors and sellers of the ALCO Insect Strip, Amvac Insect
14 Strip, ALCO Pest Strip, ALCO Bug Spray, ALCO DDVP 1 Spray and
15 ALCO Fly Fighter Liquid Concentrate (hereinafter "ALCO Covered
16 Products"). The Retail Product Proposition 65 Warning Letter
17 shall contain as enclosures the documents described in
18 subparagraphs 8.3.1.2 through 8.3.1.4 of this Consent Judgment.

19 8.3.1.2 Shipping Carton Notice

20 Amvac shall attach on the outside of the shipping
21 carton for each ALCO Covered Product sent to a retailer/seller
22 (hereinafter the "ALCO shipping carton"), a Shipping Carton
23 Notice. Such Shipping Carton Notice shall advise the
24 retailer/seller that the Shelf Talker (described in paragraph
25 8.3.1.4) is enclosed in the ALCO shipping carton and must be
26 displayed with the product. An example of an approved Shipping
27 Carton Notice for use pursuant to this paragraph is attached as

1 Exhibit 3 to this Consent Judgment. The Shipping Carton Notice
2 shall be printed in black upper case type on a fluorescent or
3 bright colored background and the print shall be at least of the
4 size as represented on Exhibit 3 to this Consent Judgment.

5 **8.3.1.3 Notice to Retailer Flyer**

6 Amvac shall enclose in each ALCO shipping carton an
7 8-1/2 x 11 inch Notice to Retailer flyer. The flyer, a copy of
8 which is attached as Exhibit 4 to this Consent Judgment, shall
9 advise the retailer/seller of its responsibility to provide
10 Proposition 65 warnings to consumers by use of the Shelf Talker
11 provided in the ALCO shipping carton.

12 **8.3.1.4 Shelf Talker**

13 Amvac shall enclose in each ALCO shipping carton a
14 "Shelf Talker" sign. The Shelf Talker sign is intended to be put
15 on the shelf on which ALCO Covered Products are placed for sale
16 to provide the Proposition 65 warning to purchasers of such
17 products. The Shelf Talker shall be at least 2 1/2 inches high
18 by 5 inches wide. An example of an approved Shelf Talker for use
19 pursuant to this paragraph is attached as Exhibit 5 to this
20 Consent Judgment. The Shelf Talker shall be printed in black
21 upper case type on a fluorescent or bright colored background and
22 the print shall be at least of the size as represented on Exhibit
23 5 to this Consent Judgment.

24 **8.3.2 Bio-Strip Pest Strip**

25 **8.3.2.1** Amvac shall provide to Bio-Strip a copy of
26 the "Bio-Strip Proposition 65 Warning Letter," which is attached
27 as Exhibit 6 to this Consent Judgment, to be distributed to all

1 retailers, distributors and sellers of the Bio-Strip Pest Strip.
2 The Bio-Strip Proposition 65 Warning Letter shall contain as
3 enclosures the documents described in subparagraphs 8.3.2.2 and
4 8.3.2.3 of this Consent Judgment. Amvac shall amend its
5 Distributorship Agreement with Bio-Strip to state that Bio-Strip
6 is required to provide the Bio-Strip Proposition 65 Warning
7 Letter to all current and future retailers, distributors and
8 sellers of the Bio-Strip Pest Strip, and that the failure to do
9 so is a violation of the Distributorship Agreement between Amvac
10 and Bio-Strip.

11 8.3.2.2 Shipping Carton Notice

12 Amvac shall cause to have attached to the outside of
13 shipping cartons for Bio-Strip Pest Strips sent to retailers,
14 distributors and sellers of the Bio-Strip Pest Strip a Shipping
15 Carton Notice. The Shipping Carton Notice shall advise the
16 retailer/seller that, with respect to sales in California, the
17 pest strips must be displayed for sale only in the display case
18 provided in the Bio-Strip Pest Strip shipping carton (the "Bio-
19 Strip Pest Strip Display Case"), so that the Proposition 65
20 warning language is visible to the consumer. An example of an
21 approved Shipping Carton Notice for use pursuant to this
22 paragraph is attached as Exhibit 7 to this Consent Judgment. The
23 Shipping Carton Notice shall be printed in black upper case type
24 on a fluorescent or bright colored background and the print shall
25 be at least of the size as represented on Exhibit 7 to this
26 Consent Judgment.

27 ///

1 8.3.2.3 Display Case Proposition 65 Warning

2 Amvac shall cause to have prominently printed on the
3 front of each Bio-Strip Pest Strip Display Case or on a label
4 affixed to the front of each Bio-Strip Pest Strip Display Case
5 shipped to California the warning language required pursuant to
6 subparagraph 8.2.0 of this Consent Judgment. Amvac shall cause
7 to have printed on a label to be enclosed with each Bio-Strip
8 Pest Strip Display Case shipped outside of California the warning
9 language required pursuant to subparagraph 8.2.0 of this Consent
10 Judgment, which label is intended to be affixed by the
11 retailer/seller to the front of each Bio-Strip Pest Strip Display
12 Case used to display the Bio-Strip Pest Strip for sale in
13 California. The Proposition 65 Warning required pursuant to this
14 subparagraph shall be printed in black upper case type on a
15 fluorescent or bright colored background and shall be at least 2
16 inches by 5 inches. The print type shall be at least 20 point in
17 size, except that the word "WARNING" shall appear centered above
18 the remainder of the warning and shall be in a print size larger
19 than 20 point. An example of approved print size and type for
20 the Proposition 65 Warning to be used pursuant to this paragraph
21 is attached as Exhibit 8 to this Consent Judgment.

22 8.3.3 Loveland Pest Strips

23 8.3.3.1 Amvac shall provide to Loveland Industries,
24 Inc. ("Loveland") a copy of the "Loveland Proposition 65 Warning
25 Letter," which is attached as Exhibit 9 to this Consent Judgment,
26 to be distributed to all retailers, distributors and sellers of
27 the Loveland Pest Strip. The Loveland Proposition 65 Warning

1 Letter shall contain as enclosures the documents described in
2 subparagraphs 8.3.3.2 and 8.3.3.3 of this Consent Judgment.
3 Amvac shall amend its Distributorship Agreement with Loveland to
4 state that Loveland is required to provide the Loveland
5 Proposition 65 Warning Letter to all current and future
6 retailers, distributors and sellers of the Loveland Pest Strip,
7 and that the failure to do so is a violation of the
8 Distributorship Agreement between Amvac and Loveland.

9 8.3.3.2 Shipping Carton Notice

10 Amvac shall cause to have attached to the outside of
11 shipping cartons for Loveland Pest Strips sent to retailers,
12 distributors or sellers of the Loveland Pest Strip a Shipping
13 Carton Notice. The Shipping Carton Notice shall advise the
14 retailer/seller that, with respect to sales in California, the
15 pest strips must be displayed for sale only in the product
16 Display Case provided in the Loveland Pest Strip shipping carton
17 (the "Loveland Pest Strip Display Case"), so that the Proposition
18 65 warning language is visible to the consumer. An example of an
19 approved Shipping Carton Notice for use pursuant to this
20 paragraph is attached as Exhibit 10 to this Consent Judgment.
21 The Shipping Carton Notice shall be printed in black upper case
22 type on a fluorescent or bright colored background and the print
23 shall be at least of the size as represented on Exhibit 10 to
24 this Consent Judgment.

25 8.3.3.3 Display Case Proposition 65 Warning

26 Amvac shall cause to have prominently printed on the
27 front of each Loveland Pest Strip Display Case or on a label

1 affixed to the front of each Loveland Pest Strip Display Case
2 shipped to California the warning language required pursuant to
3 subparagraph 8.2.0 of this Consent Judgment. Amvac shall cause
4 to have printed on a label to be enclosed with each Loveland Pest
5 Strip Display Case shipped outside of California the warning
6 language required pursuant to subparagraph 8.2.0 of this Consent
7 Judgment, which label is intended to be affixed by the
8 retailer/seller to the front of each Loveland Pest Strip Display
9 Case used to display the Loveland Pest Strip for sale in
10 California. The Proposition 65 Warning required pursuant to this
11 subparagraph shall be printed in black upper case type on a
12 fluorescent or bright colored background and shall be at least 2
13 inches by 5 inches. The print type shall be at least 20 point in
14 size, except that the word "WARNING" shall appear centered above
15 the remainder of the warning and shall be in a print size larger
16 than 20 point. An example of approved print size and type for
17 the Proposition 65 Warning to be used pursuant to this paragraph
18 is attached as Exhibit 11 to this Consent Judgment.

19 RAW PRODUCTS

20 8.3.4 DDVP Technical Grade

21 Amvac shall provide a copy of the "Raw Product Proposition
22 65 Warning Letter," a copy of which is attached as Exhibit 12 to
23 this Consent Judgment, to all Amvac's current and future
24 customers who purchase DDVP Technical Grade from Amvac. The Raw
25 Product Proposition 65 Warning Letter shall contain as enclosures
26 the documents described in subparagraphs 8.3.1.1 through 8.3.1.4
27 of this Consent Judgment.

1 8.4 Amvac may make changes to the Retail Product
2 Proposition 65 Warning Letter, Bio-Strip Proposition 65 Warning
3 Letter, Loveland Proposition 65 Warning Letter, Shipping Carton
4 Notices, Notice to Retailer Flyer, Shelf Talker, Bio-Strip
5 Display Case Proposition 65 Warning, Loveland Display Case
6 Proposition 65 Warning or Raw Product Proposition 65 Warning
7 Letter, which documents are described in subparagraphs 8.3.1.1
8 through 8.3.3.4, only upon receiving the prior approval in
9 writing of the Office of the California Attorney General.

10 8.5 Retailer/Seller Non-Compliance

11 If Amvac elects to provide warnings through the provision of
12 shelf talkers or display cases pursuant to paragraphs 8.1(b) of
13 this Consent Judgment, and if at any point Amvac learns that a
14 retailer/seller is selling a Covered Product without using the
15 shelf talker or display case containing the warning provided by
16 Amvac under this Consent Judgment, Amvac shall within one week
17 from obtaining such knowledge notify the retailer/seller in
18 writing that the retailer/seller is required to provide a warning
19 by displaying the shelf talker or display case as a condition of
20 sale of the Covered Product. The letter shall state further that
21 if the retailer/seller refuses to provide such warnings it must
22 return all unsold Covered Products to Amvac. Amvac shall mail a
23 copy of the letter by first class mail to the Attorney General of
24 the State of California, 300 S. Spring Street, Los Angeles, CA
25 90013, to the attention of Deputy Attorney General Gail Ruderman
26 Feuer.

27 ///

1 8.6. Amvac Compliance

2 If Amvac elects to provide warnings through the provision of
3 shelf talkers or display cases pursuant to paragraph 8.1(b) of
4 this Consent Judgment, and is in full compliance with the terms
5 and requirements of this Consent Judgment, Amvac shall not be
6 deemed in violation of the provisions of this Consent Judgment
7 due to the failure of any retailer/seller to comply with
8 Proposition 65.

9 8.7 Amvac Non-Compliance

10 The Office of the California Attorney General shall give
11 Amvac ten (10) days notice in writing prior to taking any
12 enforcement action against Amvac for violation of any of the
13 labeling and warning requirements contained in this Consent
14 Judgment.

15 9. Application of Consent Judgment

16 9.0. This Consent Judgment shall apply to and be binding
17 upon the parties, their directors, officers, employees, agents,
18 parents, affiliates, divisions, subdivisions, and subsidiaries,
19 and the successors or assigns of any of them.

20 10. Authority to Stipulate to this Consent Judgment

21 10.0. Each signatory to this Consent Judgment certifies
22 that he or she is fully authorized by the party he or she
23 represents to enter into and stipulate to this Consent Judgment
24 and to execute it on behalf of the party represented and legally
25 to bind that party.

26 ///

27 ///

1 11. Retention of Jurisdiction

2 11.0. This Court shall retain jurisdiction of this matter
3 to implement the Consent Judgment.

4 12. Execution

5 12.0 This Consent Judgment may be executed in one or more
6 counterparts, each of which shall be original but all of which,
7 together, shall be deemed to constitute a single document.

8 13. Titles and Captions

9 13.0 Paragraphs, titles and captions contained in this
10 Consent Judgment are inserted only as a matter of convenience and
11 for reference, and in no way define, limit, extend or describe
12 the scope of this Consent Judgment or the intent of any provision
13 herein.

14 14. Entire Agreement

15 14.0 This Consent Judgment contains the sole and entire
16 agreement and understanding of the parties with respect to the
17 entire subject matter hereof, and any and all prior discussions,
18 negotiations, commitments and understandings related hereto are
19 hereby merged herein. No representations, oral or otherwise,
20 expressed or implied, other than those contained herein have been
21 made by any party hereto. No other agreements not specifically
22 referred to herein, oral or otherwise, shall be deemed to exist
23 or to bind any of the parties.

24 ///

25 ///

26 ///

27

1 15. Governing Law

2 15.0 The validity, construction and performance of this
3 Consent Judgment shall be governed by the laws of the State of
4 California.

5 IT IS SO STIPULATED:

6 DATED: June 9, 1992

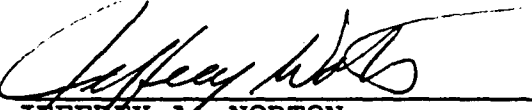
DANIEL E. LUNGREN, Attorney General
of the State of California
THEODORA BERGER,
Assistant Attorney General
CRAIG C. THOMPSON
GAIL RUDERMAN FEUER
Deputy Attorneys General

7
8
9
10 By 
11 GAIL RUDERMAN FEUER

12 Attorneys for People of the State
of California

13 DATED: June 9, 1992

AMVAC CHEMICAL CORPORATION

14
15 By 
16 JEFFREY A. NORTON,
VICE PRESIDENT

17 Approved as to form and content:

18 DATED: June 9, 1992

19 MUSICK, PEELER & GARRETT

20
21 By 
JAMES W. MILLER

22 Attorneys for Amvac Chemical
23 Corporation

24 IT IS SO ORDERED.

25 DATED: _____

JUDGE OF THE SUPERIOR COURT

26 c:\grf\amvac5.fin

27

1 15. Governing Law

2 15.0 The validity, construction and performance of this
3 Consent Judgment shall be governed by the laws of the State of
4 California.

5 IT IS SO STIPULATED:

6 DATED: June 9, 1992

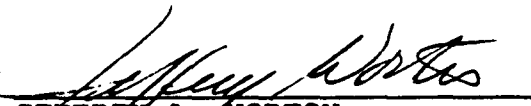
DANIEL E. LUNGREN, Attorney General
of the State of California
THEODORA BERGER,
Assistant Attorney General
CRAIG C. THOMPSON
GAIL RUDERMAN FEUER
Deputy Attorneys General

7
8
9
10 By 
11 GAIL RUDERMAN FEUER

12 Attorneys for People of the State
of California

13 DATED: June 7, 1992

AMVAC CHEMICAL CORPORATION

14
15 By 
16 JEFFREY A. NORTON,
VICE PRESIDENT

17 Approved as to form and content:

18 DATED: June __, 1992

19 MUSICK, PEELER & GARRETT

20
21 By 
JAMES W. MILLER

22 Attorneys for Amvac Chemical
23 Corporation

24 IT IS SO ORDERED.

25 DATED: JUN 10 1992

JUDGE PAUL BOLAND
JUDGE OF THE SUPERIOR COURT

26 c:\grf\amvac5.fin
27



South Coast
AIR QUALITY MANAGEMENT DISTRICT

Facility ID No. 016865
Certificate No. AQ000535

**CERTIFICATE OF PROOF
FOR REGISTERED EMISSION REDUCTION CREDIT**

The South Coast Air Quality Management District hereby registers this Emission Reduction Credit

To: AMVAC CHEMICAL CORP GNRL

Reduction Created at: 4100 E WASHINGTON BLVD
LOS ANGELES ,CA. 90023

In the amount of 1292 Pounds/day of Reactive Organic Gases

Type of Emission Reduction: Negative NSR Balance

Application Number that Created the Reduction: CONVERSION OF NSR BALANCE

Description of Reduction: 07/10/91

Date of Issuance: 07/10/91

Date Reduction Created: 07/10/91

Zone Number Reduction Created: 01

Previous Certificate No. (If applicable) : BC0064


Controller

COPY

NOT NEGOTIABLE

Any use or transfer of ownership must be approved by the SCAQMD

Date

Customer's name and address

Subject: The California Safe Drinking Water
and Toxic Enforcement Act
("Proposition 65") - Warning

Dear

:

This letter is to confirm to you that the agricultural chemical dichlorvos ("DDVP") has been placed by the Governor of the State of California on the California Proposition 65 list. Your organization, like all others engaged in the distribution of a listed substance, needs to comply with Proposition 65 when marketing products in California that contains DDVP.

For a listed substance, Proposition 65 requires that "no person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to the state to cause cancer ... without first giving clear and reasonable warning to such individual ... (emphasis added)."

It has come to our attention that some of Amvac's products, which contain DDVP as an active ingredient, may be in the retail-sales system in California without a clear and reasonable prior warning that DDVP is known to the State of California to cause cancer. Amvac has been and will continue to follow the procedures listed below for its end-use products containing DDVP that are shipped for sale in California.

1. Amvac's formulated end-use products containing DDVP currently marketed in California are:

Alco® Bug Spray
EPA Reg. No. 5481-240

Alco® Fly Fighter Liquid Concentrate
EPA Reg. No. 5481-73

Alco® DDVP 1 Spray
EPA Reg. No. 5481-41

2. Sealed inside of each Amvac shipping-carton containing any of the products listed above is the following information:

One "Notice to Retailer" form - copy attached.
This notice informs the retailer/seller of its responsibility to inform consumers of the required

Proposition 65 warning. This notice also includes instructions for the display of a "shelf talker" with the product at the point of display.

Three Shelf Talkers cards. The shelf talkers are to be displayed by the retailer/seller as explained in the Notice to Retailer form.

3. After the Amvac shipping-carton is sealed, a "shipping carton notice, a copy of which is also attached, is affixed to the top of the carton. This notice also advises the retailer/seller that the shelf talker enclosed in the carton must be displayed with the product at the time of sale.

Of course, should you have any questions or comments about anything mentioned above or with the enclosed materials, please do not hesitate to contact either Jeannie Vasquez or myself, by phone or mail, for further clarification, information, or more warning materials.

Sincerely,

Amvac Chemical Corporation

Jack L. Prieur
Director Regulatory Affairs

Attachments

Exhibit 2
(Section 8.3.1.1)
(Retail Product Proposition 65 Warning letter)

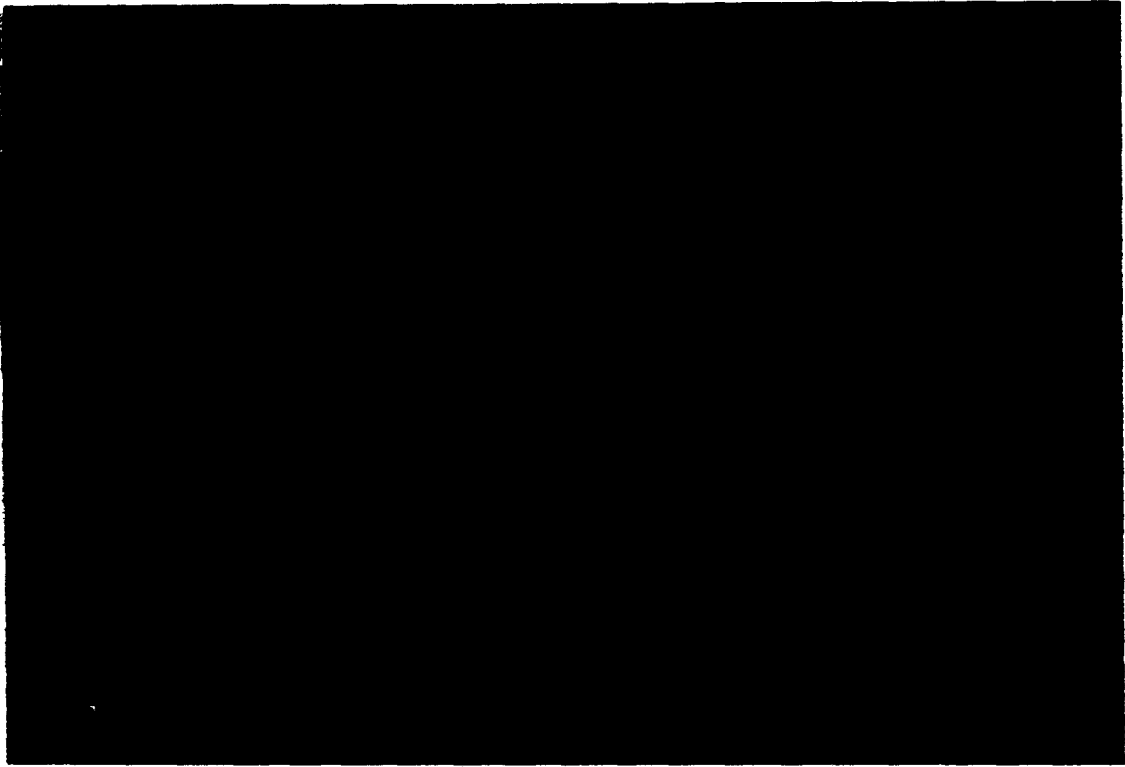


Exhibit 3
(Section 8.3.1.2)
(Shipping Carton Notice)

NOTICE TO RETAILER

For retail sales of this product to consumers in California, the enclosed "shelf talker" must be used at the point of product display so that the California Proposition 65 warning is visible to the consumer.

The enclosed card is the shelf talker notice. Note the score line located horizontally about two inches from the bottom. Holding the shelf talker with the verbiage facing towards you, fold the bottom portion of the shelf talker away from you along the score line to form a base. The shelf talker then must be placed in front of the product on the display shelf so it is clearly and readily visible to the consumer. To prevent the shelf talker from being knocked from the shelf, moved, or removed, you may want to either tape the base of the shelf talker to the shelf or place the product behind and resting directly on the shelf talker base.

Should you have any questions regarding these instructions or need additional shelf talkers, please contact:

Jeannie Vasquez or Jack Prieur
Amvac Chemical Corporation
Telephone: 213/264-3910

June 5, 1992

Exhibit 4
(Section 8.3.1.3)
(Amvac Notice to Retailer Flyer)

WARNING
THIS PRODUCT CONTAINS A
CHEMICAL KNOWN TO THE
STATE OF CALIFORNIA TO
CAUSE CANCER.

Exhibit 5
(Section 8.3.1.4)
(Shelf Talker)

Date

Customer's name and address

Subject: The California Safe Drinking Water
and Toxic Enforcement Act
("Proposition 65") - Warning

Dear :

This letter is to confirm to you that the agricultural chemical dichlorvos ("DDVP") has been placed by the Governor of the State of California on the California Proposition 65 list. Your organization, like all others engaged in the distribution of a listed substance, needs to comply with Proposition 65 when marketing products in California that contains DDVP.

For a listed substance, Proposition 65 requires that "no person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to the state to cause cancer ... without first giving clear and reasonable warning to such individual ... (emphasis added)."

It has come to our attention that some Bio-Strip Pest Strips, which contain DDVP as an active ingredient, may be in the retail-sales system in California without a clear and reasonable prior warning that DDVP is known to the State of California to cause cancer. Bio-Strip will follow the procedures listed below for Bio-Strip Pest Strips containing DDVP:

1. Bio-Strip Pest Strips currently marketed are:

Bio-Strip Pest Strip
EPA Reg. No. 5481-348-61292

Bio-Strip Pest Strip Industrial Strip
EPA Reg. No. 5481-344-61292

2. After every Bio-Strip shipping-carton is sealed, a shipping carton notice, a copy of which is attached, is affixed to the top of the carton. This notice advises the retailer/seller that, with respect to sales in California, Bio-Strip Pest Strips must be displayed for sale only in the Bio-Strip Display Cases provided in the shipping-carton. This makes the Proposition 65 Warning clearly visible to the consumer at the time of sale.

3. Bio-Strip places a Proposition 65 Warning on the front of Bio-Strip Display Cases shipped directly to California. This assures that the Proposition 65 Warning is clearly visible to the consumer at the time of sale.

4. Enclosed inside of each Bio-Strip shipping-carton containing any of the products listed above shipped to anywhere but California is a self-adhesive label, copy attached. If this product is later sold in California, the retailer/seller must place the enclosed label on the front of the Bio-Strip Display Case to provide the proper Proposition 65 Warning to the consumer at the time of sale.

Of course, if you have any questions or comments about anything mentioned above or with the enclosed materials, please do not hesitate to let me know.

Sincerely,

Bio-Strip, Inc.

Jerry Coleman
President

Attachments

Exhibit 6
(Section 8.3.2.1)
(Bio-Strip Proposition 65 Warning letter)

NOTICE

CALIFORNIA PROPOSITION 65

=====

FOR RETAIL SALES OF THIS PRODUCT TO CONSUMERS IN CALIFORNIA, THE BIO-STRIP PEST STRIPS MUST BE SOLD/DISPENSED FROM THE ENCLOSED BIO-STRIP DISPLAY CASE.

IF THE DISPLAY CASE DOES NOT HAVE THE PROPOSITION 65 WARNING ON ITS FRONT, THEN THE ENCLOSED PROPOSITION 65 WARNING STICKER MUST BE APPLIED TO THE FRONT OF THE DISPLAY CASE.

If you are unable or unwilling to comply with these requirements, please return the products for credit. For obtaining a product return authorization number or if you need additional stickers or information, please contact Bio-Strip at 702/348-0037.

Exhibit 7
(Section 8.3.2.2)
(Bio-Strip Shipping Carton Notice)

WARNING

**Using this product will expose you
to a chemical known to the state
of California to cause cancer.**

Exhibit 8
(Section 8.3.2.4)
(Bio-Strip Display Case Proposition 65 Warning)

Date

Customer's name and address

Subject: The California Safe Drinking Water
and Toxic Enforcement Act
("Proposition 65") - Warning

Dear :

This letter is to confirm to you that the agricultural chemical dichlorvos ("DDVP") has been placed by the Governor of the State of California on the California Proposition 65 list. Your organization, like all others engaged in the distribution of a listed substance, needs to comply with Proposition 65 when marketing products in California that contains DDVP.

For a listed substance, Proposition 65 requires that "no person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to the state to cause cancer ... without first giving clear and reasonable warning to such individual ... (emphasis added)."

It has come to our attention that some Loveland Industries, Inc. ("Loveland") Pest Strips, which contain DDVP as an active ingredient, may be in the retail-sales system in California without a clear and reasonable prior warning that DDVP is known to the State of California to cause cancer. Loveland Display Cases will now contain a revised warning under Proposition 65 that: "WARNING: USING THIS PRODUCT WILL EXPOSE YOU TO A CHEMICAL KNOWN TO THE STATE OF CALIFORNIA TO CAUSE CANCER."

Loveland will follow the procedures listed below for Loveland Pest Strips containing DDVP:

1. Loveland Pest Strips currently marketed are:

Loveland Industries, Inc. Pest Strip
EPA Reg. No. 5481-338-36208

2. After every Loveland shipping-carton is sealed, a shipping carton notice, a copy of which is attached, is affixed to the top of the carton. This notice advises the retailer/seller that, with respect to sales in California, Loveland Pest Strips must be displayed for sale only in the Loveland Display Cases provided in the shipping-carton. This makes the Proposition 65 Warning clearly visible to the consumer at the time of sale.

3. Loveland places a Proposition 65 Warning on the front of Loveland Display Cases shipped directly to California. This assures that the Proposition 65 Warning is clearly visible to the consumer at the time of sale.

4. Enclosed inside of each Loveland shipping-carton containing any of the products listed above shipped to anywhere but California is a self-adhesive label, copy attached. If this product is later sold in California, the retailer/seller must place the enclosed label on the front of the Loveland Display Case to provide the proper Proposition 65 Warning to the consumer at the time of sale.

Of course, if you have any questions or comments about anything mentioned above or with the enclosed materials, please do not hesitate to let me know.

Sincerely,

Loveland Industries, Inc.

Scott Baker
Safety and Compliance Officer

Attachments

Exhibit 9
(Section 8.3.3.1)
(Loveland Proposition 65 Warning letter)

NOTICE

CALIFORNIA PROPOSITION 65

=====

FOR RETAIL SALES OF THIS PRODUCT TO CONSUMERS IN CALIFORNIA, THE LOVELAND PEST STRIPS MUST BE SOLD/DISPENSED FROM THE ENCLOSED LOVELAND DISPLAY CASE.

IF THE DISPLAY CASE DOES NOT HAVE THE PROPOSITION 65 WARNING ON ITS FRONT, THEN THE ENCLOSED PROPOSITION 65 WARNING STICKER MUST BE APPLIED TO THE FRONT OF THE DISPLAY CASE.

If you are unable or unwilling to comply with these requirements, please return the products for credit. For obtaining a product return authorization number or if you need additional stickers or information, please contact Loveland Industries at 303/356-8920.

Exhibit 10
(Section 8.3.2.2)
(Loveland Shipping Carton Notice)

WARNING

**Using this product will expose you
to a chemical known to the state
of California to cause cancer.**

Exhibit 11
(Section 8.3.1.4)
(Loveland Proposition 65 Warning)

Date

Customer's name and address

Attention: Regulatory Affairs

Subject: California Safe Drinking Water and
Toxic Enforcement Act ("Proposition
65") - Warning

Dear Sir or Madam:

This will serve to inform your organization that the agricultural chemical dichlorvos ("DDVP") has been placed by the Governor of the State of California on the California Proposition 65 list. Your organization, like others engaged in the distribution of a listed substance, needs to comply with Proposition 65 when marketing products in California that contain DDVP.

For a listed substance, Proposition 65 requires that "no person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to the state to cause cancer ... without first giving clear and reasonable warning to such individual ... (emphasis added)." Any individual includes purchasers of the products, employees, or other persons exposed due to use of the product. No warning need be given if the amount of exposure is so small that it poses "no significant risk of cancer" as defined by California regulations.

Amvac is not aware of what products your company formulates for sales in California that contain DDVP. This being the case, it is your responsibility to determine whether the risk posed is at a level that requires a warning and, if so, to insure that a Proposition 65 warning is passed on to retailers, and others with a duty to warn, of such products containing DDVP. Amvac has and is taking certain procedures in connection with its sale of formulated end-use products containing DDVP that are either shipped to a location in California or known to Amvac that such products may ultimately return to California. To facilitate your compliance with the Proposition 65 requirements, the following procedures are used by Amvac for its products that require a warning:

Enclosed is a copy of a letter used by Amvac to advise its customers of end-use products containing DDVP of the requirements of Proposition 65.

Attached to the outside of each Amvac shipping carton containing an end-use product containing DDVP is an "shipping carton" notice - copy enclosed. This notice advises the retailer/seller that the "shelf talker" enclosed inside the carton must be displayed with a product containing DDVP.

In addition, inserted into each such Amvac shipping carton for end-use products containing DDVP are:

One "Notice to Retailer" form - copy enclosed. This form informs the retailer/seller of its responsibility to notify consumers of the required Proposition 65 warning. This form also includes instructions for the display of a "shelf talker" with the product at the point of display.

Three "Shelf Talker" cards - copy enclosed. These shelf talkers are to be displayed by the retailer/seller as explained in the Notice to Retailer form.

As you may recall from our earlier correspondence on this matter, under certain circumstances described above, your company should have been providing this type of information to your customers and others purchasing formulated DDVP products for sale in California since January 1, 1990.

Should you have any questions or comments about anything mentioned above or in the attached materials, please do not hesitate in contacting either Jeannie Vasquez or myself, by phone or mail, for further clarification.

Sincerely,

Amvac Chemical Corporation

Jack L. Prieur
Director Regulatory Affairs

Attachments

Exhibit 12
(Section 8.3.4)
(Raw Product Proposition 65 Warning Letter)

1 MUSICK, PEELER & GARRETT
A LAW PARTNERSHIP
2 ONE WILSHIRE BOULEVARD
LOS ANGELES, CALIFORNIA 90017-3321
3 TELEPHONE (213) 629-7600
FACSIMILE (213) 624-1376

4 PROOF OF SERVICE

5 STATE OF CALIFORNIA
6 COUNTY OF LOS ANGELES

7 I am employed in the County of Los Angeles, State of
8 California. I am over the age of 18 and not a party to the within
9 action; my business address is MUSICK, PEELER & GARRETT, One
10 Wilshire Boulevard, Suite 2000, Los Angeles, California 90017.

11 On June 10, 1992, I served the foregoing document
12 described as CONSENT JUDGMENT on interested parties in this action
13 by placing true copies thereof enclosed in sealed envelopes
14 addressed as follows:

15 Jeffrey A. Norton, Esq.
16 Vice President, General Counsel
17 American Vanguard Corporation
18 4100 East Washington Blvd.
19 Los Angeles, California 90023

20 Gail Feuer, Esq.
21 Attorney Generals Office
22 300 So. Spring St., 5th Fl.
23 Los Angeles, California

24 I am "readily familiar" with the firm's practice of
25 collection and processing correspondence for mailing. Under that
26 practice it would be deposited with U.S. postal service on that
27 same day with postage thereon fully prepaid at Los Angeles,
28 California in the ordinary course of business. I am aware that on
motion of the party served, service is presumed invalid if postal
cancellation date or postage meter date is more than one day after
date of deposit for mailing in affidavit.

Executed on June 10, 1992, at Los Angeles, California.

I declare under penalty of perjury under the laws of the
State of California that the above is true and correct.

27 Paula B. Likens
28 Type or Print Name

Paula B. Likens
Signature