

**UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION IX  
75 HAWTHORNE STREET  
SAN FRANCISCO, CA 94105**

In the matter of:	)	
	)	Docket No. FIFRA-09-2020-0037
Liquid Packaging Co.	)	
	)	CONSENT AGREEMENT AND
Respondent.	)	FINAL ORDER PURSUANT TO
	)	40 C.F.R. §§ 22.13(b) AND 22.18(b)

I. CONSENT AGREEMENT

The United States Environmental Protection Agency (“EPA”), Region IX and Liquid Packaging Co. (“Respondent”) agree to settle this matter and consent to the entry of this Consent Agreement and Final Order (“CAFO”). This CAFO simultaneously commences and concludes this proceeding in accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b).

A. AUTHORITY AND PARTIES

1. This administrative proceeding is for the assessment of a civil administrative penalty under Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (“FIFRA”), 7 U.S.C. § 136l(a), against Respondent for failure to complete and submit an annual pesticide production report for the 2016 reporting year by March 1, 2017 for its pesticide production establishment, as required by Section 7(c)(1) of FIFRA, 7 U.S.C. § 136e(c)(1), and the applicable regulation, 40 C.F.R. § 167.85.

2. Complainant is the Manager of the Toxics Section for the Enforcement and Compliance Assurance Division, who has been duly delegated to commence and settle an enforcement action in this matter.

3. Respondent is a California corporation that owns, operates, controls and/or is otherwise responsible for a facility located at 7739 Monroe St. Paramount, CA 90723.

## B. APPLICABLE STATUTORY AND REGULATORY SECTIONS

4. Section 2(s) of FIFRA, 7 U.S.C. § 136(s), provides that a “person” means any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not.

5. Section 2(w) of FIFRA, 7 U.S.C. § 136(w), provides that a “producer” is the person who manufactures, prepares, compounds, propagates, or processes any pesticide or device or active ingredient used in producing a pesticide.

6. Section 7(c)(1) of FIFRA, 7 U.S.C. § 136e(c)(1), and 40 C.F.R. § 167.85 provide that each producer operating an establishment registered under Section 7(a) of FIFRA, 7 U.S.C. § 136e(a), is required to complete and submit an annual pesticide production report to EPA on or before March 1 of each year that includes the amount of each pesticidal product produced during the past year, sold or distributed during the past year, and estimated to be produced during the current year.

7. Section 12(a)(2)(L) of FIFRA, 7 U.S.C. § 136j(a)(2)(L), makes it unlawful for any person who is a producer to violate any provision of Section 7 of FIFRA.

## C. ALLEGED VIOLATION

8. Respondent is a “person” as defined in Section 2(s) of FIFRA, 7 U.S.C. § 136(s).

9. Respondent owns, operates, controls and/or is otherwise responsible for a facility located at 7739 Monroe St. Paramount, CA 90723 (hereinafter "Facility").

10. Respondent had registered the Facility as a pesticide producing establishment in compliance with Section 7(a) of FIFRA, 7 U.S.C. § 136e(a). The Establishment Number was 72342-CA-1.

11. Respondent was a “producer” as defined by Section 2(w) of FIFRA, 7 U.S.C. § 136(w), and, as a producer, Respondent was subject to the requirements of Section 7 of FIFRA, 7 U.S.C. § 136e, and the applicable regulations promulgated pursuant thereto contained in 40 C.F.R. Part 167.

12. Respondent failed to complete and submit an annual pesticide production report for the 2016 production year by March 1, 2017 for the Facility, as required by Section 7(c)(1) of

FIFRA, 7 U.S.C. § 136e(c)(1), and 40 C.F.R. § 167.85, which constitutes a violation of Section 12(a)(2)(L) of FIFRA, 7 U.S.C. § 136j(a)(2)(L).

13. Respondent previously failed to submit an annual pesticide production report for the Facility for production year 2013 by March 1, 2014, which constituted a violation of Section 12(a)(2)(L) of FIFRA, 7 U.S.C. § 136j(a)(2)(L), for which Respondent was issued a Notice of Warning on June 6, 2014.

14. Consequently, Respondent's failure to complete and submit an annual pesticide production report for the 2016 production year by March 1, 2017 for the Facility constituted a violation of Section 12(a)(2)(L) of FIFRA, 7 U.S.C. § 136j(a)(2)(L), subject to a penalty under EPA's Enforcement Response Policy for FIFRA Section 7(c) dated May 2010.

15. On or about December 5, 2017, however, instead of paying a penalty for failure to timely submit for the 2016 production year, Respondent chose to voluntarily terminate its production establishment. The production establishment was terminated on or about December 7, 2017.

16. On or about April 14, 2020, Respondent has now requested that its production establishment be re-activated, but under EPA's Enforcement Response Policy for FIFRA Section 7(c) dated May 2010, it must first resolve the 2017 violation that triggered the establishment's termination if within the five-year statute of limitations of the violation.

#### D. RESPONDENT'S ADMISSIONS

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

#### E. CIVIL ADMINISTRATIVE PENALTY

18. In settlement of the violation specifically alleged in Section I.C. of this CAFO,

Respondent shall pay a civil administrative penalty of THREE THOUSAND, NINE HUNDRED AND TWENTY-EIGHT DOLLARS (\$3,928). Respondent shall pay the full amount of this penalty within thirty (30) calendar days after the effective date of this CAFO.

19. Payment of the amount assessed above shall be made, including the name and docket number of this case and made payable to the "Treasurer, United States of America" by one of the methods listed below:

a. Wire Transfers:

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

Federal Reserve Bank of New York  
ABA = 021030004  
Account = 68010727  
SWIFT address = FRNYUS33  
33 Liberty Street  
New York, NY 10045

Field Tag 4200 of the Fedwire message should read "D 68010727 Environmental Protection Agency."

b. ACH (also known as REX or remittance express):

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, MD 20737  
Remittance Express (REX): 1-866-234-5681

c. Online Payment:

This payment option can be accessed from the information below:

www.pay.gov  
Enter "sfo 1.1" in the search field  
Open form and complete required fields

**If clarification regarding a particular method of payment remittance is needed, please**

**contact the EPA Cincinnati Finance Center at 513-487-2091.**

20. Concurrent with payment of the penalty, Respondent shall send a PDF copy of the notification that the payment has been made by one of the methods listed above, including proof of the date payment was made, to the following email addresses:

Regional Hearing Clerk  
U.S. EPA, Region IX  
[r9HearingClerk@epa.gov](mailto:r9HearingClerk@epa.gov)

Timothy Hyles, Enforcement Officer  
Toxics Section  
Enforcement and Compliance Assurance Division  
U.S. EPA, Region IX  
[hyles.timothy@epa.gov](mailto:hyles.timothy@epa.gov)

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

22. If Respondent fails to pay in full the civil administrative penalty assessed in Paragraph 18 by the deadline specified in Paragraph 18, then Respondent shall pay to EPA a stipulated penalty of \$500 per day in addition to the assessed penalty. Stipulated penalties shall accrue until the assessed penalty and all accrued stipulated penalties are paid and shall become due and payable upon written request by EPA. In addition, failure to pay in full the civil administrative penalty by deadline specified may lead to any or all of the following actions:

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

b. The debt being collected 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. EPA may (i) suspend or revoke Respondent's licenses or other privileges; or (ii) suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds. 40 C.F.R. § 13.17.

23. In accordance with the Debt Collection Act of 1982 and 40 C.F.R. Part 13, interest, penalty charges, and administrative costs will be assessed against the outstanding amount that Respondent owes to EPA for Respondent's failure to pay in full the civil administrative penalty by its due date. Interest will be assessed at an annual rate that is equal to the rate of current value of funds to the United States Treasury (i.e., the Treasury tax and loan account rate) as prescribed and published by the Secretary of the Treasury in the Federal Register and the Treasury Fiscal Requirements Manual Bulletins, 40 C.F.R. § 13.11(a)(1). Penalty charges will be assessed monthly at a rate of 6% per annum, 40 C.F.R. § 13.11(c). Administrative costs for handling and collecting Respondent's overdue debt will be based on either actual or average cost incurred, and will include both direct and indirect costs, 40 C.F.R. § 13.11(b). In addition, if this matter is referred to another department or agency (e.g., the Department of Justice, the Internal Revenue Service), that department or agency may assess its own administrative costs, in addition to EPA's administrative costs, for handling and collecting Respondent's overdue debt.

#### F. CERTIFICATION OF COMPLIANCE

24. In executing this CAFO, Respondent certifies that, to its knowledge, it is currently in compliance with any FIFRA requirements that may apply to its operations.

#### G. RETENTION OF RIGHTS

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

CAFO.

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

#### H. ATTORNEYS' FEES AND COSTS

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

#### I. EFFECTIVE DATE

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


#### J. BINDING EFFECT

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

30. 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.

**FOR RESPONDENT, LIQUID PACKAGING CO.:**

June 1, 2020  
DATE

  
Dean Mouren-Laurens  
Vice-President  
Liquid Packaging Co.

**FOR COMPLAINANT, EPA REGION IX:**

6/3/20  
DATE

MATTHEW  
SALAZAR  
  
Matt Salazar, P.E.  
Manager, Toxics Section  
Enforcement and Compliance Assurance Division  
U.S. Environmental Protection Agency, Region IX



II. FINAL ORDER

Complainant and Respondent, having entered into the forgoing Consent Agreement,  
IT IS HEREBY ORDERED that this CAFO (**Docket No. FIFRA-09-2020-** 0037 ) be  
entered, and Respondent shall pay a civil administrative penalty in the amount THREE  
THOUSAND, NINE HUNDRED AND TWENTY-EIGHT DOLLARS (\$3,928) in accordance  
with the terms set forth in the Consent Agreement.

\_\_\_\_\_  
DATE

**STEVEN JAWGIEL**

Digitally signed by STEVEN  
JAWGIEL  
Date: 2020.06.26 11:22:25 -07'00'

\_\_\_\_\_  
Steven L. Jawgiel  
Regional Judicial Officer  
U.S. EPA, Region IX

CERTIFICATE OF SERVICE

I hereby certify that the original of the fully executed Consent Agreement and Final Order, (**Docket No FIFRA-09-2020- 0037** ) was filed with the Regional Hearing Clerk, U.S. EPA, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, and that a true and correct copy of the same was sent to the following parties:

A copy was emailed to:

Dean Mouren-Laurens  
Vice-President  
Liquid Packaging Co.  
[dean@lpc.com](mailto:dean@lpc.com)

*classie@ILPC.com*

An additional copy was emailed to the following U.S. EPA case attorney:

Carol Bussey, Esq.  
Assistant Regional Counsel  
U.S. EPA, Region IX  
[Bussey.Carol@epa.gov](mailto:Bussey.Carol@epa.gov)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Regional Hearing Clerk  
U.S. EPA, Region IX